



ASIC

Australian Securities & Investments Commission

REPORT 225

Insolvency statistics: External administrators' reports 1 July 2007–30 June 2010

December 2010

About this report

This report presents statistical findings from reports lodged electronically by liquidators, receivers and administrators from 1 July 2007 to 30 June 2010.

About ASIC regulatory documents

In administering legislation ASIC issues the following types of regulatory documents.

Consultation papers: seek feedback from stakeholders on matters ASIC is considering, such as proposed relief or proposed regulatory guidance.

Regulatory guides: give guidance to regulated entities by:

- explaining when and how ASIC will exercise specific powers under legislation (primarily the Corporations Act)
- explaining how ASIC interprets the law
- describing the principles underlying ASIC's approach
- giving practical guidance (e.g. describing the steps of a process such as applying for a licence or giving practical examples of how regulated entities may decide to meet their obligations).

Information sheets: provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

Reports: describe ASIC compliance or relief activity or the results of a research project.

Previous external administrators' statistics reports

This is the second report of statistics compiled from external administrators' reports. The first report was published in June 2008.

Report number	Report date
REP 132	June 2008

Disclaimer

This report has not been prepared for and should not be relied on for commercial use. In compiling the statistics in this report, ASIC has relied on the information in the reports lodged electronically with ASIC.

Other than as discussed in Section B, ASIC has not verified or sought to confirm the accuracy of any information in the external administrators' reports. Accordingly, the statistics in this report cannot be construed or relied on as representing a complete and accurate depiction or statement about the matters or events to which the statistics relate.

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Summary of main findings

The following statistics are compiled from *initial* reports lodged by external administrators: see paragraph 8 'Important terms used in this report'.

Profile of companies

	2009–2010	2008–2009	2007–2008
No. of employees affected	77% of reports were about companies with less than 20 employees	75% of reports were about companies with less than 20 employees	78% of reports were about companies with less than 20 employees
Industries with most lodgements	<ul style="list-style-type: none"> • Construction (1,905 reports or 24%) • Other (business & personal) services (1,735 reports or 22%) • Retail trade (818 reports or 10%) 	<ul style="list-style-type: none"> • Other (business & personal) services (1,787 reports or 23%) • Construction (1,760 reports or 23%) • Retail trade (904 reports or 12%) 	<ul style="list-style-type: none"> • Construction (1,517 reports or 22%) • Services to business (873 reports or 13%) • Retail trade (860 reports or 12%)
Assets and liabilities	<ul style="list-style-type: none"> • 85% of failed companies had estimated assets of \$100,000 or less • 46% of failed companies had estimated liabilities of \$250,000 or less 	<ul style="list-style-type: none"> • 86% of failed companies had estimated assets of \$100,000 or less • 52% of failed companies had estimated liabilities of \$250,000 or less 	<ul style="list-style-type: none"> • 87% of failed companies had estimated assets of \$100,000 or less • 55% of failed companies had estimated liabilities of \$250,000 or less
Deficiency	<ul style="list-style-type: none"> • 66% of failed companies had an estimated deficiency of \$500,000 or less 	<ul style="list-style-type: none"> • 72% of failed companies had an estimated deficiency of \$500,000 or less 	<ul style="list-style-type: none"> • 75% of failed companies had an estimated deficiency of \$500,000 or less

Causes of company failure

	2009–2010	2008–2009	2007–2008
Top 3 nominated causes of failure	<ul style="list-style-type: none"> • Poor strategic management of business (3,463 or 44% of reports) • Inadequate cashflow or high cash use (3,205 or 41% of reports) • Poor financial control including lack of records (2,609 or 33% of reports) 	<ul style="list-style-type: none"> • Poor strategic management of business (3,317 or 43% of reports) • Inadequate cashflow or high cash use (2,943 or 38% of reports) • Poor financial control including lack of records (2,596 or 34% of reports) 	<ul style="list-style-type: none"> • Poor strategic management of business (2,937 or 42% of reports) • Inadequate cashflow or high cash use (2,871 or 41% of reports) • Poor financial control including lack of records (2,380 or 34% of reports)

Possible misconduct

	2009–2010	2008–2009	2007–2008
Top 3 alleged possible misconduct	<ul style="list-style-type: none"> • s588G(1)–(2) Insolvent trading • s286 & 344(1) Obligation to keep financial records • s180 Care & diligence—Directors' & officers' duties 	<ul style="list-style-type: none"> • s588G(1)–(2) Insolvent trading • s286 & 344(1) Obligation to keep financial records • s180 Care & diligence—Directors' & officers' duties 	(Not available)

Estimated dividends

	2009–2010	2008–2009	2007–2008
Dividends to unsecured creditors	In 97% of cases, the dividend estimated to be payable to unsecured creditors was less than 11 cents in the dollar	In 97% of cases, the dividend estimated to be payable to unsecured creditors was less than 11 cents in the dollar	In 96% of cases, the dividend estimated to be payable to unsecured creditors was less than 11 cents in the dollar

Electronically lodged reports

The total number of electronically lodged external administrator statutory reports has increased from 96% in the 2007–2008 financial year to 98% in 2009–2010: see Section C.

The total number of electronic reports lodged *directly* by external administrators has risen from 93% in 2007–2008 to 96% in 2009–2010.

A ASIC and company insolvency

- 1 One of ASIC's regulatory responsibilities is the administration of the provisions in the *Corporations Act 2001* (Corporations Act) that relate to insolvency. This responsibility is wide: see Table 1.

Table 1: ASIC's activities in insolvency

Companies and company officers	<ul style="list-style-type: none"> • Reviewing companies suspected of trading while insolvent, to make directors focus on the solvency of their companies and take early action where solvency problems exist • Investigating possible misconduct associated with the collapse of a company, and taking appropriate enforcement action • Deregistering companies • Disqualifying directors of failed companies
Insolvency practitioners	<ul style="list-style-type: none"> • Registering liquidators • Providing assistance in the conduct of external administrations by insolvency practitioners, including prosecuting directors who do not provide books and records or reports to external administrators • Administering the Assetless Administration Fund (AA Fund), which finances preliminary investigations and reports by liquidators into the failure of companies with few or no assets, when it appears to ASIC that we may be able to take enforcement action as a result of their investigations and reports • Assessing external administrators' reports lodged with ASIC as part of their statutory responsibilities to investigate company failure and report findings to ASIC • Investigating possible misconduct by insolvency practitioners in their conduct of external administrations, and where appropriate, referring the conduct to the court or to the Companies Auditors and Liquidators Disciplinary Board (CALDB)
All stakeholders	<ul style="list-style-type: none"> • Developing ASIC policy and guidance on the insolvency provisions of the Corporations Act • Publishing statistics on corporate insolvency about: <ul style="list-style-type: none"> – companies entering external administration – insolvency appointments – findings from reports lodged by liquidators, receivers and administrators

B About statistics from external administrators' reports

- 2 This statistical report provides a broad picture of corporate insolvencies in Australia for the information of the insolvency profession, creditors, academics, the Australian Government and other interested stakeholders. This report covers the 2007–2008, 2008–2009 and 2009–2010 financial years. The previous statistical report covered 2004–2005, 2005–2006 and 2006–2007 financial years: see Report 132 *External administrators: Schedule B statistics 1 July 2004–30 June 2007* (REP 132).
- 3 This report was compiled from the estimates and opinions contained in statutory reports lodged with ASIC by liquidators, administrators and receivers (external administrators) in the format of Schedule B to Regulatory Guide 16 *External administrators: Reporting and lodging* (RG 16) (Schedule B report).
- 4 Reports are lodged under the following sections of the Corporations Act:
 - s533 (by a liquidator);
 - s438D (by an administrator); and
 - s422 (by a receiver).
- 5 External administrators must lodge a report with ASIC as soon as practicable:
 - when they suspect an offence under an Australian law, or instances of negligence or misconduct relating to the company to which they are appointed; or
 - in the case of a liquidation only, when unsecured creditors are unlikely to receive more than 50 cents in the dollar dividend.
- 6 Changes to the Corporations Act, introduced a statutory time limit on the lodgement of reports by a liquidator appointed after 31 December 2007. Liquidators must now lodge reports as soon as practicable, and in any event within six months, after it so appears to him or her that any of the conditions in s533(1)(a), (b) and (c) apply. No statutory time limit was introduced under s422 or 438D.
- 7 We also ask external administrators to submit financial and other data when they complete their reports.

Important terms used in this report

- 8 The following terms are used in this report and are important for understanding the statistics. For a full list of terms used in this report, see 'Key terms' at the end of this report.

Term	Meaning in this document
Electronically lodged report	A Schedule B report lodged: <ul style="list-style-type: none"> • directly by external administrators through the registered liquidators' portal; or • on paper by external administrators in the Schedule B format, and subsequently entered by ASIC staff through the staff portal.
Initial external administrator report	The first electronically lodged Schedule B report after a company has entered external administration.

General conditions/limitations

- 9 When interpreting the statistics in this report, please keep the following conditions/limitations in mind:
- Although we encourage external administrators to report in the Schedule B report format, the use of this format is voluntary. It is not a statutory requirement. Reports not lodged in this format are only included in total lodgement statistics (see Section C and Table 2) and not in the rest of the report.
 - The statistics in this report will not directly correlate with the monthly statistics for 'Companies entering external administration' and 'Insolvency appointments' on ASIC's website due to the time delay in lodgement of reports: see Table 5. Reports are not required to be lodged where the pre-conditions of either s422, 438D or 533 of the Corporations Act are not met.
 - Some reports are lodged for statistical purposes only, rather than under the Corporations Act. For example, a liquidator may choose to lodge a report for a company with no suspected misconduct and with an estimated dividend of more than 50 cents in the dollar, so that the financial and other data for this company is reflected in the aggregated statistics.

Conditions/limitations on information in Sections D, E and F

- 10 To avoid double counting, all statistics are compiled only from the first electronically lodged report after a company has entered external administration (EXAD) status (the initial external administrator report). This allows for the following situations:
 - While a company is in EXAD status, it may be subject to more than one appointment type. Even though a report may be lodged for each appointment type, only the first electronically lodged report for the company is included in the statistics.
 - More than one report may also be lodged for each appointment type. Again, only the first electronically lodged report is included.
 - A company may go in and out of EXAD status more than once. For each period in EXAD status, only the first electronically lodged report is included.
- 11 While only the first electronically lodged report is included in these statistics, an external administrator may have lodged an additional report on paper in a narrative form (not the Schedule B format).
- 12 Financial information provided in external administrators' reports reflects estimates and opinions of the external administrator at a point in time. Revised information from subsequent or updated reports is not reflected in these statistics.
- 13 When completing the report, an external administrator selects from a predetermined set of options for qualitative questions, and ranges for quantitative questions.
- 14 Limited testing carried out by ASIC while compiling these statistics identified a small number of reports with estimated employee entitlements inconsistent with other responses in those reports (e.g. very high unpaid employee entitlements but less than five employees; high unpaid employee entitlements which are significantly greater than estimated total liabilities). These reports have been eliminated from the employee entitlements statistics where the impact was material.
- 15 The top six or 12 industries by number of reports lodged are shown for some statistics by industry and remaining industries are grouped under 'Other industries'.
- 16 Statistics broken down by region use the latest registered address on ASIC's corporate database (ASCOT). When an external administrator from another region becomes the external administrator and changes the registered office address on ASCOT, the new address will be used. Companies with international registered addresses are not included in any regional statistics.
- 17 Percentages may not add up to 100% due to rounding.

Amendments to Schedule B report format

18 In July 2008, we reissued RG 16 to enhance the quality of information disclosed. The key parts of the Schedule B report format which were amended are as follows:

- 'Contraventions' was renamed 'Possible misconduct' and divided into civil and criminal breaches of the Corporations Act or other Commonwealth or state or territory laws. Availability of evidence is now disclosed for each type of possible misconduct identified.
- Contraventions were not included in Report 132 *External administrators: Schedule B statistics 1 July 2004–30 June 2007* (REP 132). Possible misconduct is only disclosed for the financial years ended 2008–2009 and 2009–2010.

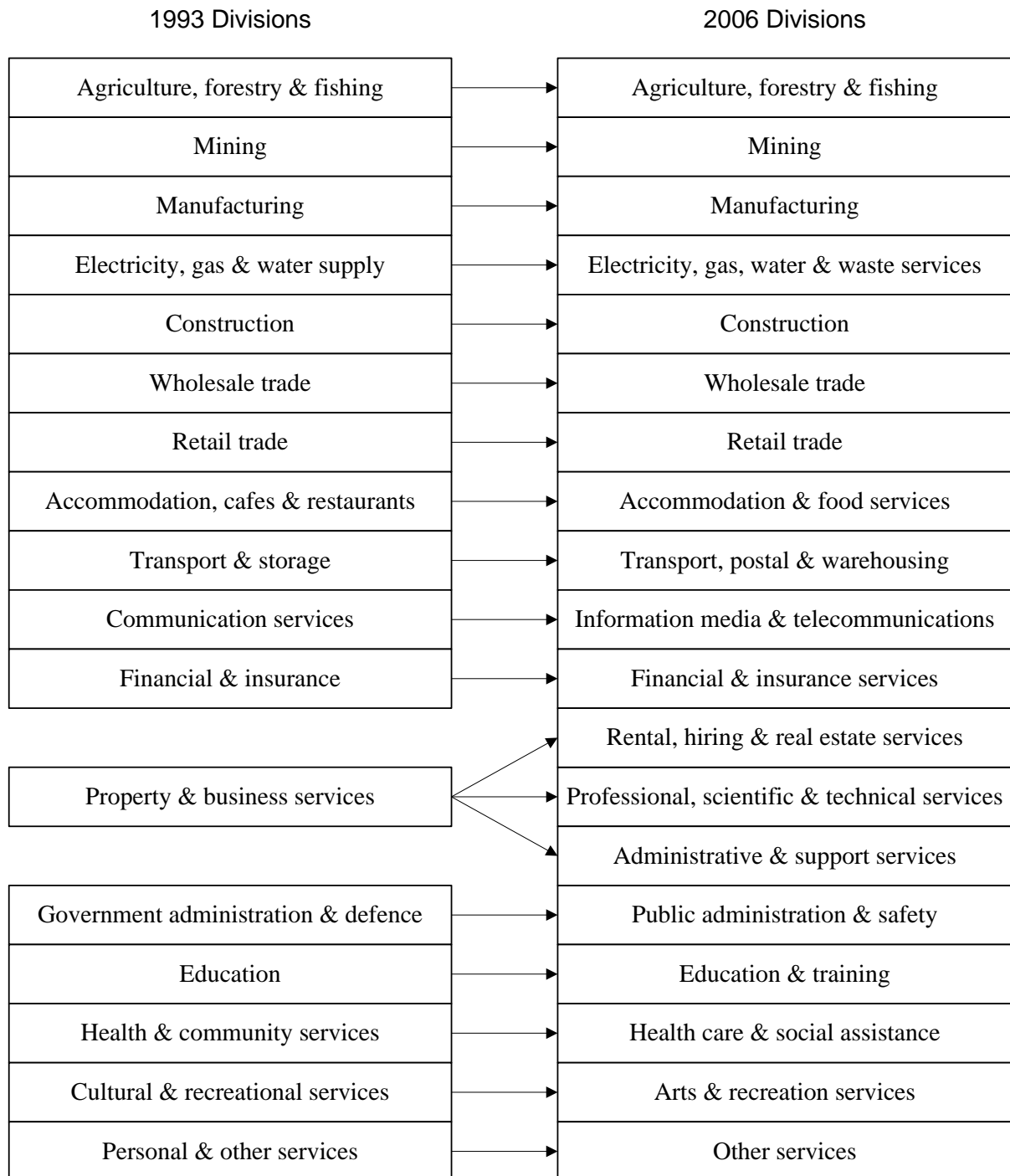
Changes to industry categories

19 Industry categories were updated to align with 2006 Australian and New Zealand Standard Industrial Classification (ANZSIC) divisions. ANZSIC divisions are classified into subdivisions, group and classes. Due to the large number of changes made at subdivision and group level, comparison of industry data pre- and post-1 July 2008 is more difficult. Changes to the Schedule B report format for industry categories include the following:

- The 'Financial & insurance' industry category was previously broken down as separate industry categories due to ASIC's particular focus in this area. The sub-categories in the Schedule B report format of 'Credit provider', 'Deposit taking institutions', 'Insurance', 'Managed investments', 'Superannuation' and 'Other financial services' are now combined under 'Financial & insurance services' and do not align with ANZSIC subdivision, group or class titles. References to 'Financial & insurance services' sub-categories have been abbreviated to 'FIS'.
- The number of divisions was increased by rearranging the 'Property & business services' category into 'Administrative & support services', 'Professional, scientific & technical services' and 'Rental, hiring & real estate services'.
- Some industries were renamed to better reflect their composition: 'Accommodation, cafes & restaurants' is now 'Accommodation & food services'; 'Cultural & recreational services' is now 'Arts & recreation services'; 'Education' is now 'Education & training'; 'Electricity, gas & water supply' is now 'Electricity, gas, water & waste services'; 'Health & community services' is now 'Health care & social assistance'; 'Personal & other services' is now 'Other services'; 'Government administration & defence' is now 'Public administration & safety'; and 'Transport & storage' is now 'Transport, postal & warehousing'.
- Schedule B's former industry category 'Agriculture' has been renamed 'Agriculture, forestry & fishing' in line with ANZSIC divisions.

- 'Communication services' was effectively replaced by 'Information media & telecommunications', bringing together a number of classes from previous divisions.
- 'Personal & other services' and Schedule B's former industry category 'Services to business' have been grouped under a new Schedule B category 'Other (business & personal) services' (ANZSIC division name 'Other services').

Detail of industry descriptions is available from www.abs.gov.au/anzsic.
See also Figure 1.

Figure 1: ANZSIC division changes

C Lodgements of statutory reports

Total lodgements of statutory reports

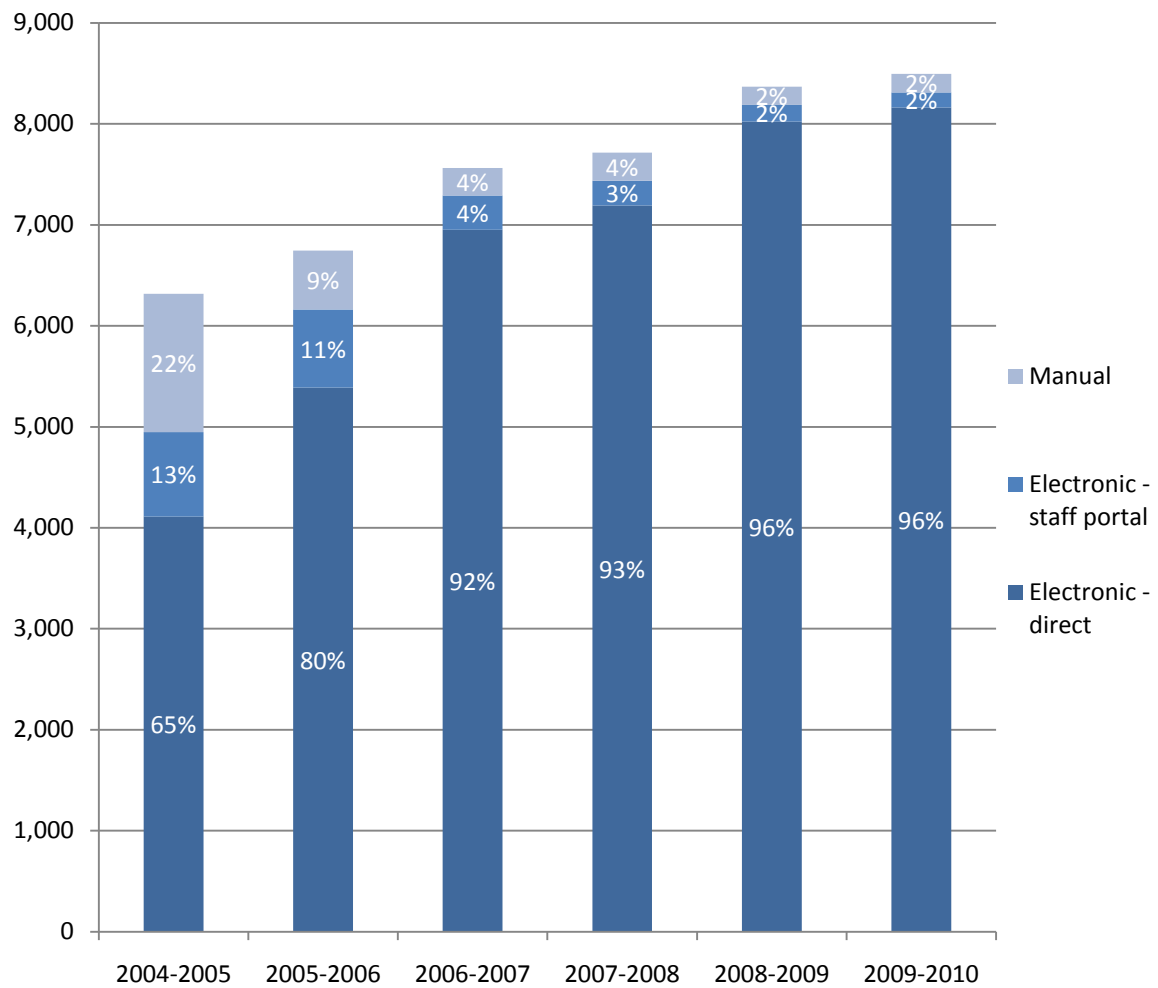
- 20 The total number of external administrator statutory reports lodged has increased consistently over the three-year period ended 30 June 2010. Total reports lodged has increased from 7,715 reports lodged in the 2007–2008 financial year to 8,494 reports lodged in the 2009–2010 financial year.
- 21 The percentage of electronically lodged reports has increased significantly from 36.8% in the 2002–2003 financial year (when electronic lodgement first became available) to 97.9% of reports electronically lodged in the 2009–2010 financial year.
- 22 The number of reports lodged directly by external administrators through the registered liquidators' portal has risen from 36.8% in 2002–2003 to 96.1% in 2009–2010.

Table 2: Total external administrator statutory reports lodged by lodgement type (1 July 2007–30 June 2010)

	2009–2010		2008–2009		2007–2008	
	No.	%	No.	%	No.	%
Electronic—direct	8,161	96.1%	8,024	95.9%	7,193	93.2%
Electronic—staff portal	151	1.8%	163	1.9%	242	3.1%
Manual	182	2.1%	183	2.2%	280	3.6%
Total	8,494	100.0%	8,370	100.0%	7,715	100.0%

Electronic—direct	Schedule B reports lodged directly by external administrators through the registered liquidators' portal.
Electronic—staff portal	Schedule B reports lodged on paper by external administrators in the Schedule B report format and subsequently entered by ASIC staff through the staff portal.
Manual	<p>Reports lodged on paper by external administrators.</p> <p>Note: Excludes supplementary reports (Schedule C reports). This figure relates to reports lodged on paper not in the Schedule B report format, as reports lodged on paper in the Schedule B format were entered through the staff portal: see above.</p>

Figure 2: Total external administrator statutory reports lodged by lodgement type (1 July 2004–30 June 2010)



Initial external administrators' reports lodged

- 23 To avoid double counting, the statistics in the rest of this report relate only to initial external administrators' reports that were electronically lodged in the 2007–2008, 2008–2009 and 2009–2010 financial years: see paragraph 8 'Important terms used in this report'.
- 24 The number of initial external administrators' reports lodged has increased from 6,933 reports in 2007–2008 to 7,903 reports in 2009–2010.

**Table 3: Initial external administrators' reports
(1 July 2007–30 June 2010)**

	2009–2010	2008–2009	2007–2008
Total	7,903	7,733	6,933

- 25 Table 4 shows the reduction in the percentage of reports that are lodged more than 12 months after the appointment of the external administrator.

**Table 4: Initial external administrators' reports by timing of
lodgement (1 July 2005–30 June 2010)**

	Reports lodged within 6 months	Reports lodged more than 12 months after appointment
2009–2010	51%	23%
2008–2009	53%	23%
2007–2008	46%	29%
2006–2007	48%	29%
2005–2006	51%	27%

D Initial external administrators' reports 2009–2010

26 For the year ended 30 June 2010, initial external administrators' reports made up 93.0% (or 7,903 reports) of the total number of external administrator statutory reports lodged: see Table 2 and Table 3 in Section C. This compares to 92.4% (or 7,733 reports) in 2008–2009.

Key points

Initial external administrators' reports disclosed the following material movements in 2009–2010 from the previous financial year:

- Companies reported as failing due to poor economic conditions increased from 16.6% to 26.8% of reports.
- Companies with no misconduct being reported decreased from 34.2% to 31.2%. Conversely, the number of reports alleging misconduct increased from 65.8% to 68.8%
- Reports alleging criminal misconduct under s429, 438B, 446C and 475 (report as to company's affairs) decreased from 16% to 12% of reports.
- Reports alleging an insolvent trading breach of civil obligations under s588G(1)–(2) increased from 40.6% to 45.8% of reports.
- Companies with estimated liabilities of \$250,000 or less fell from 52% to 45.8% of reports.
- Companies with unsecured creditors liability of \$250,000 or less fell from 66.3% to 59.6% of reports.
- Companies with estimated deficiencies of \$250,000 or less fell from 54.7% to 48.8% of reports, while deficiencies of between \$1 million and less than \$5 million increased from 11.9% to 15.1% of reports.
- Companies with unpaid annual leave not being applicable fell from 75.2% to 72.1% of reports.
- Companies with unpaid pay in lieu of notice not being applicable fell from 87.6% to 84.5% of reports.
- Companies with unpaid superannuation not being applicable fell from 64.7% to 61.4% of reports.
- Companies with no secured creditor liability fell from 70.1% to 66.5% of reports.

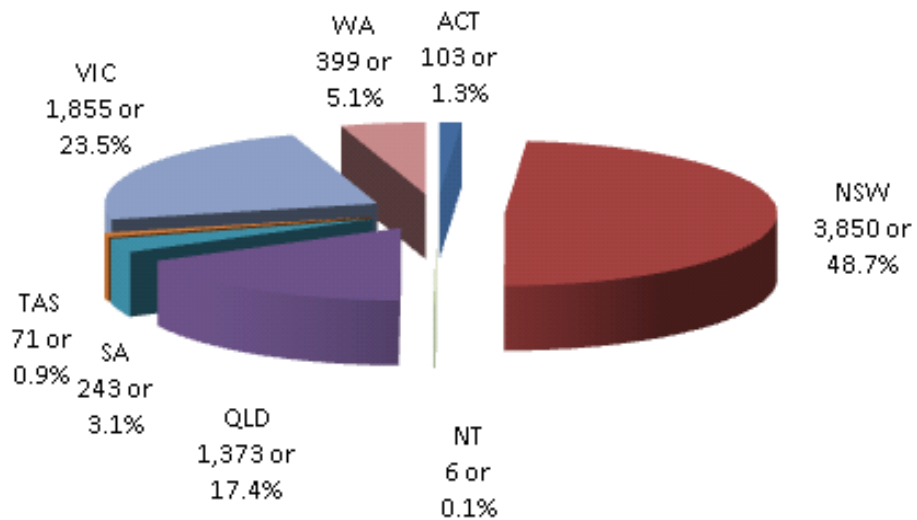
Note: All other reported figures have not changed by three percentage points or more from the previous financial year.

Lodgements by region

27 The majority of reports in 2009–2010 related to New South Wales registered companies (3,850 reports or 48.7%), followed by Victoria (1,855 reports or

23.5%) and Queensland (1,373 reports or 17.4%). The five remaining states and territories made up 10.4% of reports.

Figure 3: Initial external administrators' reports by region (1 July 2009–30 June 2010)



Note: Three companies with international registered addresses are not included in regional statistics.

Lodgement period

- 28 In the year ended 30 June 2010, 51.4% of reports were lodged within six months of the external administrator's appointment, compared to 53.1% in the year ended 2009. Another 23% of reports were lodged more than 12 months after appointment: see Table 5.
- 29 The result may be distorted by instances where the first electronically lodged report was not the first report lodged.

Table 5: Initial external administrators' reports by lodgement period (1 July 2009–30 June 2010)

	No.	%
Less than 2 months	982	12.4%
Between 2 and 5 months	3,084	39.0%
Between 6 and 12 months	2,016	25.5%
More than 12 months	1,821	23.0%
Total	7,903	100.0%

Note: Liquidators appointed from 1 January 2008 must lodge reports as soon as practicable, and in any event within six months, after it so appears to him or her that any of the conditions in s533 apply.

Section lodged under

- 30 Most reports in 2009–2010 (95%) were lodged by liquidators for the purpose of complying with s533 of the Corporations Act: see Table 6.

Table 6: Initial external administrators' reports by section of the Corporations Act (1 July 2009–30 June 2010)

	No.	%
Section 422 (reports by receiver)	89	1.1%
Section 438D (reports by administrator)	296	3.7%
Section 533 (reports by liquidator)	7,506	95.0%
Statistical purposes	12	0.2%
Total	7,903	100.0%

Size of company

- 31 The number of employees or the number of full-time equivalent employees is used as a measure of the size of the company. In 2009–2010, 76.7% of reports related to companies with less than 20 employees: see Table 7.

Table 7: Initial external administrators' reports—Size of company as measured by number of FTEs (1 July 2009–30 June 2010)

	No.	%
Less than 5 FTE	4,766	60.3%
Between 5 and 19 FTE	1,296	16.4%
Between 20 and 199 FTE	392	5.0%
200 or more FTE	28	0.4%
Not known	1,421	18.0%
Total	7,903	100.0%

Note: FTE = Full-time equivalent employees.

Industry

- 32 In 2009–2010, the three industries with the highest number of reports lodged were Construction (1,905 reports or 24.1%), Other (business & personal) services (1,735 reports or 22%) and Retail trade (818 reports or 10.4%).
- 33 The top 12 industries are the same as for 2008–2009, but with some changes in the order of ranking.

Table 8: Initial external administrators' reports by industry type (1 July 2009–30 June 2010)

	No.	%
Construction	1,905	24.1%
Other (business & personal) services	1,735	22.0%
Retail trade	818	10.4%
Accommodation & food services	561	7.1%
Manufacturing	511	6.5%
Transport, postal & warehousing	472	6.0%
Information media & telecommunications	254	3.2%
Rental, hiring & real estate services	234	3.0%
Wholesale trade	227	2.9%
Financial & insurance services (FIS)—Other financial services	203	2.6%
Professional, scientific & technical services	159	2.0%
Agriculture, forestry & fishing	147	1.9%
Financial & insurance services (FIS)—Managed investments	112	1.4%
Arts & recreation services	108	1.4%
Health care & social assistance	108	1.4%
Electricity, gas, water & waste services	97	1.2%
Mining	86	1.1%
Administrative & support services	71	0.9%
Education & training	49	0.6%
Financial & insurance services (FIS)—Credit provider	19	0.2%
Public administration & safety	13	0.2%
Financial & insurance services (FIS)—Insurance	12	0.2%
Financial & insurance services (FIS)—Superannuation	2	0.0%
Total	7,903	100.0%

Note 1: No reports were received from Financial & insurance services (FIS)—Deposit taking institutions.

Note 2: A number of amendments to the Schedule B report format were implemented effective from 1 July 2008, including changes to industry categories which were updated to align with 2006 ANZSIC divisions. ANZSIC divisions are classified into subdivisions, group and classes. The large number of changes made at subdivision and group level make comparison of industry data pre- and post-1 July 2008 less accurate. For details, see Section B and Figure 1 in this report.

Nominated causes of failure

- 34 There is commonly more than one reason for a company's failure. External administrators nominated an average of 2.44 causes of failure per report in 2009–2010.
- 35 The top three nominated causes of failure for companies (see Table 9 and Table 10) were:
- poor strategic management of business (3,463 or 43.8% of reports);
 - inadequate cash flow or high cash use (3,205 or 40.6% of reports); and
 - poor financial control including lack of records (2,609 or 33% of reports).
- 36 Of the top 12 industries, the three industries which most exceeded the percentage of reports for these three causes of failure were:
- *poor strategic management of business*: Wholesale trade (47.6% of reports), Accommodation & food services (47.4% of reports) and Manufacturing (46.2% of reports);

Note: A number of industries grouped in the 'Other industries' category exceeded the average 43.8% of reports for poor strategic management of business. The top six of these were Public administration & safety (69.2% of reports), FIS—Managed investments (61.6% of reports), Arts & recreation services (55.6% of reports), FIS—Insurance services and FIS—Superannuation (50% of reports each), and Administrative & support services (47.9% of reports).
 - *inadequate cash flow or high cash use*: FIS—Other financial services (50.7% of reports), Retail trade (47.2% of reports) and Manufacturing (44.8% of reports);

Note: The following five industries grouped in the 'Other industries' category exceeded the average 40.6% of reports for inadequate cash flow or high cash use: FIS—Managed investments (59.8% of reports), Education & training (51% of reports), Administrative & support services (45.1% of reports), Health care & social assistance (42.6% of reports) and Arts & recreation services (40.7% of reports).
 - *poor financial control including lack of records*: Other (business & personal) (38.4% of reports), Transport, postal & warehousing (36.9% of reports), and Accommodation & food services (36% of reports).
- 37 No region shared all of the same top three causes as for industry. The three largest states (New South Wales, Victoria and Queensland) did share the same top cause as per industry, being poor strategic management of business. See Table 10.

Table 9: Initial external administrators' reports—Nominated causes of failure by industry (1 July 2009–30 June 2010)

	Construction	Other (business & personal) services	Retail trade	Accommodation & food services	Manufacturing	Transport, postal & warehousing	Information media & telecommunications	Rental, hiring & real estate services	Wholesale trade	FIS—Other financial services	Professional, scientific & technical services	Agriculture, forestry & fishing	Other industries	Total
Under capitalisation	428	284	222	135	129	91	66	57	44	84	40	41	186	1,807
Poor financial control including lack of records	672	667	254	202	129	174	54	67	65	47	49	50	179	2,609
Poor management of accounts receivable	323	179	59	32	100	81	37	19	41	14	27	17	76	1,005
Poor strategic management of business	839	746	353	266	236	207	107	89	108	65	59	58	330	3,463
Inadequate cash flow or high cash use	736	608	386	248	229	193	109	90	91	103	68	50	294	3,205
Poor economic conditions	503	351	264	147	169	126	75	75	64	87	26	43	187	2,117
Natural disaster	10	3	1	4	0	6	0	0	1	0	0	6	44	75
Fraud	24	24	12	7	15	4	4	10	5	2	2	2	23	134
DOCA failed	7	16	2	0	3	3	1	6	2	0	1	1	5	47
Dispute among directors	61	40	28	28	20	10	9	14	15	11	10	3	31	280
Trading losses	510	426	317	243	219	151	84	45	81	35	42	45	187	2,385
Industry restructuring	10	8	10	6	30	12	10	3	7	1	2	8	52	159
Other	466	443	215	113	114	93	84	60	56	47	41	45	213	1,990
Nominated causes of failure by industry	4,589	3,795	2,123	1,431	1,393	1,151	640	535	580	496	367	369	1,807	19,276

Note: 'Other industries' includes Administrative & support services, Arts & recreation services, Education & training, Electricity, gas, water & waste services, remaining Financial & insurance services sub-categories (Credit provider, Deposit taking institutions, Insurance, Managed investments and Superannuation), Health care & social assistance, Mining and Public administration & safety.

Table 10: Initial external administrators' reports—Nominated causes of failure by region (1 July 2009–30 June 2010)

	ACT	NSW	NT	QLD	SA	TAS	VIC	WA	Total
Under capitalisation	41	774	2	268	84	26	521	91	1,807
Poor financial control including lack of records	25	1,532	4	348	58	21	527	93	2,608
Poor management of accounts receivable	17	472	0	191	25	15	231	54	1,005
Poor strategic management of business	38	1,564	4	651	112	41	880	173	3,463
Inadequate cash flow or high cash use	40	1,448	3	541	101	28	860	182	3,203
Poor economic conditions	22	1,050	0	418	43	16	459	109	2,117
Natural disaster	1	14	0	10	0	0	50	0	75
Fraud	0	58	0	42	2	0	21	11	134
DOCA failed	0	24	0	7	3	0	10	3	47
Dispute among directors	5	104	0	57	18	6	68	21	279
Trading losses	43	964	4	428	115	37	634	159	2,384
Industry restructuring	0	42	0	8	7	10	84	8	159
Other	19	1,030	2	317	66	4	437	114	1,989
Total	251	9,076	19	3,286	634	204	4,782	1,018	19,270

Note: Causes of failure for companies with international registered addresses are not included in regional statistics.

Possible misconduct

- 38 Misconduct was alleged in more than two thirds of reports (5,438 or 68.8%) in 2009–2010. As possible misconduct is one of the main reasons for lodging reports, and major improvements were made to this area of the report from 1 July 2008, several tables have been provided on alleged misconduct.
- 39 External administrators reported 14,652 possible breaches at an average of 2.69 breaches per report where possible misconduct was reported: see Table 11.

Table 11: Initial external administrators' reports—Possible misconduct (1 July 2009–30 June 2010)

	No. of reports	% of reports	No. of breaches
No misconduct reported	2,465	31.2%	0
'Possible misconduct' reported	5,438	68.8%	14,652
Total	7,903	100.0%	14,652

- 40 As a result of reports lodged, we asked the external administrator to prepare either a supplementary s422, 438D or 533 report for 600 of the 5,438 reports (11%) for 2009–2010 where possible misconduct was identified. The request for an additional report is a function of our assessment of risk based on a number of inputs including, but not limited to, the nature of the possible misconduct reported, amount of the liabilities, deficiency suffered, availability of evidence, prior misconduct and the advice of the external administrator that the reported possible misconduct warrants further investigation.
- 41 Alleged criminal misconduct has been split between alleged misconduct occurring before the appointment of the external administrator (pre-appointment misconduct) and post-appointment misconduct related to directors' and officers' failure to assist the liquidator. In 2009–2010, 20.5% of all reported misconduct related to post-appointment misconduct: see Table 12.
- 42 Alleged breaches of civil obligations are the most common breaches (9,683 or 66.1% of all reported misconduct). For a detailed analysis of civil breaches by section of the Corporations Act, industry and region, see Table 17 and Table 19.

Table 12: Initial external administrators' reports—Categories of possible misconduct (1 July 2009–30 June 2010)

	No. of breaches	% of breaches
Alleged criminal misconduct under Corporations Act by officers or employees:		
• pre-appointment criminal misconduct	1,725	11.8%
• post-appointment criminal misconduct	3,002	20.5%
Alleged breaches of civil obligations	9,683	66.1%
Other criminal offences	76	0.5%
Other possible misconduct	166	1.1%
Total	14,652	100.0%

Note 1: 'Other criminal offences' includes breaches by a member or contributory under the Corporations Act or breaches under other Commonwealth statutes or state or territory laws.

Note 2: 'Other possible misconduct' relates to people who have taken part in the formation, promotion, administration, management or winding up of the company and may have:

- misapplied or retained, or become liable or accountable for, any money or property of the company; or
- been guilty of any negligence, default, breach of duty or trust in relation to the company.

Documentary evidence and further inquiry

43 External administrators confirmed they had documentary evidence for 3,263 reports (41.3%) for 2009–2010: see Table 14. Of these, they considered further inquiry into the alleged misconduct by us was warranted in only 885 reports, based on their assessment of the information and documentary evidence available.

44 Documentary evidence in the possession of a third party was identified in 485 reports. Based on this and their assessment, the external administrator recommended we make further inquiry in 233 reports.

Note: For 196 of the 233 reports where evidence was identified as being with a third party, the external administrator was also in possession of evidence. Therefore, these 196 reports were also included in the 885 reports where the external administrator recommended further inquiry.

45 Of the 885 reports where external administrators recommended further inquiry by ASIC, we requested supplementary reports (or Schedule C reports) for 335 reports (37.9%), of which 98 reports related to deficiencies of \$5 million or more. Of the remaining 550 reports where we did not request a supplementary report, only 52 reports (9.5%) related to deficiencies of \$5 million or more: see Table 13. The amount of deficiency is only one input of our risk assessment model.

Table 13: Initial external administrators' reports—Evidence with liquidator and further inquiry recommended by deficiency categories (1 July 2009–30 June 2010)

	Schedule C requested	Assessed & recorded	Total
\$0–\$50,000	16	37	53
\$50,001–\$250,000	51	143	194
\$250,001–less than \$500,000	47	95	142
\$500,000–less than \$1 million	42	79	121
\$1 million–less than \$5 million	81	144	225
\$5 million–\$10 million	22	31	53
Over \$10 million	76	21	97
Total	335	550	885

46

A further 290 reports indicated that further inquiry was warranted. However, the breaches related to post-appointment criminal misconduct where a separate request for liquidator assistance is required. In addition, 262 reports indicated that further inquiry was required; however, no alleged misconduct was reported in those reports.

Table 14: Initial external administrators' reports—Possible pre-appointment misconduct reported (1 July 2009–30 June 2010)

	No. of reports	% of reports	No. of breaches
External administrator has documentary evidence to support allegation			
Yes	3,263	41.3%	7,202
No	2,175	27.5%	4,448
Total	5,438	68.8%	11,650
Of those with documentary evidence, did they recommend further inquiry by ASIC?			
Yes	885	11.2%	
No	2,378	30.1%	
Total	3,263	41.3%	

	No. of reports	% of reports	No. of breaches
External administrator is aware of another person with documentary evidence			
Yes	485	6.1%	1,367
No	4,953	62.7%	10,283
Total	5,438	68.8%	11,650
Where the evidence was with another person, did they recommend further inquiry by ASIC?			
Yes	233	2.9%	
No	252	3.2%	
Total	485	6.1%	

Note: 'Pre-appointment misconduct' refers to pre-appointment criminal misconduct, alleged breaches of civil obligations, other criminal offences and other possible misconduct.

Alleged criminal misconduct

Pre-appointment criminal misconduct

- 47 Statistics for alleged pre-appointment criminal misconduct are shown by industry and region: see Table 16 and Table 18. These tables also show the number of reports where the external administrator is able to advise that evidence is available. Pre-appointment criminal misconduct predominantly relates to the conduct of an officer or director of the company before the appointment of the external administrator.
- 48 External administrators had evidence in their possession for 1,028 possible criminal breaches out of 1,725 (59.6%) reported in 2009–2010. This compares with 67.7% in 2008–2009, a fall of 8.1 percentage points, indicating a higher rate of reporting breaches where external administrators had no evidence in their possession.
- 49 The top three nominated criminal breaches for companies for 2009–2010 were the same as in 2008–2009:
- Section 588G(3) Insolvent trading: 651 breaches reported (8.2% of reports);
 - Sections 286 and 344(2) Obligation to keep financial records: 522 breaches reported (6.6% of reports); and
 - Section 184 Good faith, use of position and use of information: 271 breaches reported (3.4% of reports).

- 50 Of the top 12 industries, the three industries which most exceeded the percentage of reports for these three nominated criminal breaches were:
- *Section 588G(3) Insolvent trading:* Agriculture, forestry & fishing (10.2% of reports), Manufacturing (9.8% of reports) and FIS—Other financial services (9.4% of reports);
 - *Sections 286 and 344(2) Obligation to keep financial records:* Construction (8.4% of reports), Agriculture, forestry & fishing (8.2% of reports) and Transport, postal, & warehousing (6.8% of reports); and
 - *Section 184 Good faith, use of position and use of information:* FIS—Other financial services (6.9% of reports), Information media & telecommunications (5.9% of reports) and Rental, hiring & real estate services (4.3% of reports).

Note: A number of industries grouped in the 'Other industries' category exceeded the average 3.4% of reports for Section 184 Good faith, use of position and use of information. The top six of these were FIS—Managed investments (11.6% of reports), FIS—Credit provider (10.5% of reports), Health care & social assistance (9.3% of reports), Mining (6.1% of reports), Arts & recreation services (4.6% of reports) and Electricity, gas, water & waste services (4.2% of reports).

Post-appointment criminal misconduct

- 51 Alleged post-appointment criminal misconduct reported by external administrators relates to officers of the company failing to assist external administrators subsequent to the appointment of the external administrator: see Table 15. The 3,002 post-appointment breaches related to 1,541 reports (19.5%).
- 52 We assist external administrators in obtaining compliance by officers with their obligations to prepare a report as to company's affairs, provide books and records, and assist liquidators through our liquidator assistance program.

Table 15: Initial external administrators' reports—Possible post-appointment criminal misconduct reported by section of the Corporations Act (1 July 2009–30 June 2010)

	No. of breaches
Sections 429, 438B, 446C & 475 Report as to company's affairs	948
Section 530A Officers to help liquidator	855
Section 530B Requirement to provide liquidator with company's books	1,199
Total	3,002

Note: The Schedule B report format does not require external administrators to advise whether or not evidence is available given the nature of the misconduct being reported.

Alleged breaches of civil obligations

- 53 Statistics for alleged breaches of civil obligations are available by industry and region: see Table 17 and Table 19. The tables also show the number of reports where the external administrator is able to advise evidence is available. External administrators had evidence in their possession for 5,992 possible breaches of civil obligations out of 9,682 (61.8%) reported.
- 54 The top three nominated civil breaches for companies for 2009–2010 were:
- Section 588G(1)–(2) Insolvent trading: 3,619 breaches reported (45.8% of reports);
 - Sections 286 and 344(1) Obligation to keep financial records: 2,944 breaches reported (37.3% of reports); and
 - Section 180 Care and diligence—Directors' and officers' duties: 1,398 breaches reported (17.7% of reports).
- 55 Of the top 12 industries, the three industries which most exceeded the percentage of reports for these three nominated breaches of civil obligations were:
- *Section 588G(1)–(2) Insolvent trading*: FIS—Other financial services (60.6% of reports), Professional, scientific & technical services (56% of reports) and Transport, postal & warehousing (51.1% of reports);
 - *Sections 286 and 344(1) Obligation to keep financial records*: FIS—Other financial services (52.2% of reports), Other (business & personal) services (42.7% of reports) and Construction (41.6% of reports); and
 - *Section 180 Care and diligence—Directors' and officers' duties*: FIS—Other financial services (39.9% of reports), Professional, scientific & technical services (19.5% of reports) and Wholesale trade (19.4% of reports).
- Note: A number of industries grouped in the 'Other industries' category exceeded the average 17.7% of reports for Section 180 Care and diligence—Directors' and officers' duties. The top six of these were FIS—Superannuation (50% of reports), FIS—Managed investments (31.3% of reports), Electricity, gas, water & waste services and FIS—Insurance (25% of reports each), Mining (22.1% of reports) and FIS—Credit provider (21.1% of reports).

Table 16: Initial external administrators' reports—Possible pre-appointment criminal misconduct by section of the Corporations Act and industry (1 July 2009–30 June 2010)

	Construction	Other (business & personal) services	Retail trade	Accommodation & food services	Manufacturing	Transport, postal & warehousing	Information media & telecommunications	Rental, hiring & real estate services	Wholesale trade	FIS—Other financial services	Professional, scientific & technical services	Agriculture, forestry & fishing	Other industries	Total
Section 184 Good faith, use of position and use of information—Directors', officers' and employees' duties	57	47	28	13	21	11	15	10	5	14	2	5	43	271
Section 206A Disqualified persons not to manage corporations	8	5	1	3	3	2	2	3	1	1	1	2	2	34
Sections 286 & 344(2) Obligation to keep financial records	160	114	50	32	25	32	15	15	11	13	9	12	34	522
Section 471A Powers of other officers suspended during winding up	9	2	0	1	5	4	0	0	1	0	0	1	2	25
Section 588G(3) Insolvent trading	169	152	62	48	50	39	19	12	13	19	12	15	41	651
Section 590 Offences by officers or employees	32	24	11	7	19	11	7	10	6	4	2	1	21	155
Section 596AB Agreements to avoid employee entitlements	0	2	2	1	2	1	0	0	0	1	0	0	5	14
Other criminal offences under the Corporations Act	7	17	2	1	5	2	0	4	4	2	0	0	9	53
Total for industry	442	363	156	106	130	102	58	54	41	54	26	36	157	1,725

Note: 'Other industries' includes Administrative & support services, Arts & recreation services, Education & training, Electricity, gas, water & waste services, remaining Financial & insurance services sub-categories (Credit provider, Deposit taking institutions, Insurance, Managed investments and Superannuation), Health care & social assistance, Mining and Public administration & safety.

**Table 17: Initial external administrators' reports—Possible breaches of civil obligations by section of the Corporations Act and industry
(1 July 2009–30 June 2010)**

	Construction	Other (business & personal) services	Retail trade	Accommodation & food services	Manufacturing	Transport, postal & warehousing	Information media & telecommunications	Rental, hiring & real estate services	Wholesale trade	FIS—Other financial services	Professional, scientific & technical services	Agriculture, forestry & fishing	Other industries	Total
Section 180 Care and diligence—Directors' and officers' duties	314	283	145	86	82	72	46	37	44	81	31	26	151	1,398
Section 181 Good faith—Directors' and officers' duties	167	166	80	41	55	37	22	32	26	75	18	13	107	839
Section 182 Use of position—Directors', officers' and employees' duties	122	97	59	27	51	30	25	25	21	71	7	4	87	626
Section 183 Use of information—Directors', officers' and employees' duties	33	29	17	12	20	12	12	6	10	57	5	3	41	257
Sections 286 & 344(1) Obligation to keep financial records	793	740	250	213	138	190	65	84	73	106	61	44	187	2,944
Section 588G(1)–(2) Insolvent trading	896	770	354	264	237	241	129	85	105	123	89	59	267	3,619
Total for industry	2,325	2,085	905	643	583	582	299	269	279	513	211	149	840	9,683

Note: 'Other industries' includes Administrative & support services, Arts & recreation services, Education & training, Electricity, gas, water & waste services, remaining Financial & insurance services sub-categories (Credit provider, Deposit taking institutions, Insurance, Managed investments and Superannuation), Health care & social assistance, Mining and Public administration & safety.

Table 18: Initial external administrators' reports—Possible pre-appointment criminal misconduct by section of the Corporations Act and region (1 July 2009–30 June 2010)

	ACT		NSW		NT		QLD		SA		TAS		VIC		WA		Total	
	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator
Section 184 Good faith, use of position and use of information—Directors', officers' and employees' duties	5	5	114	75	0	0	60	40	14	11	8	5	57	40	13	10	271	186
Section 206A Disqualified persons not to manage corporations	1	0	10	7	1	1	8	6	3	2	1	1	7	6	3	3	34	26
Sections 286 & 344(2) Obligation to keep financial records	8	4	330	170	0	0	84	44	8	3	7	3	77	31	8	5	522	260
Section 471A Powers of other officers suspended during winding up	0	0	8	6	0	0	4	3	1	1	0	0	10	9	2	2	25	21
Section 588G(3) Insolvent trading	23	10	358	178	1	1	132	103	16	15	16	13	95	59	10	6	651	385
Section 590 Offences by officers or employees	2	1	65	46	0	0	42	28	3	3	1	0	35	26	7	4	155	108
Section 596AB Agreements to avoid employee entitlements	0	0	9	5	0	0	3	0	0	0	0	0	2	1	0	0	14	6
Other criminal offences under the Corporations Act	0	0	18	14	0	0	18	7	1	1	0	0	10	8	6	6	53	36
Total	39	20	912	501	2	2	351	231	46	36	33	22	293	180	49	36	1,725	1,028

**Table 19: Initial external administrators' reports—Possible breaches of civil obligations by section of the Corporations Act and region
(1 July 2009–30 June 2010)**

	ACT		NSW		NT		QLD		SA		TAS		VIC		WA		Total	
	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator
Section 180 Care and diligence— Directors' and officers' duties	32	27	689	378	2	1	231	153	54	39	17	14	277	182	96	73	1,398	867
Section 181 Good faith—Directors' and officers' duties	24	23	366	241	1	0	156	111	43	29	15	13	180	125	54	40	839	582
Section 182 Use of position—Directors', officers' and employees' duties	24	21	263	203	0	0	114	81	22	20	11	10	145	118	47	38	626	491
Section 183 Use of information— Directors', officers' and employees' duties	5	5	134	104	0	0	32	22	2	2	6	5	56	40	22	18	257	196
Sections 286 & 344(1) Obligation to keep financial records	30	21	1,840	852	1	0	317	202	53	40	15	9	619	352	68	48	2,943	1,524
Section 588G(1)–(2) Insolvent trading	62	46	1,995	1,109	4	3	425	328	113	92	27	23	829	599	164	132	3,619	2,332
Total	177	143	5,287	2,887	8	4	1,275	897	287	222	91	74	2,106	1,416	451	349	9,682	5,992

Note: Civil breaches for companies with international registered addresses are not included in region statistics.

Other possible criminal offences

- 56 There were only 76 other possible criminal offences (0.5% of overall offences) by a member or contributory under the Corporations Act or other Commonwealth statutes or state or territory laws. Of the 76, only 55 were possible offences of laws other than under the Corporations Act: see Table 20.

Table 20: Initial external administrators' reports—Other possible criminal offences (1 July 2009–30 June 2010)

	No. of breaches	Evidence with liquidator	Evidence with other
Criminal offence under the Corporations Act (if a member or contributory)	21	17	10
Criminal offence under another Commonwealth statute	26	22	12
Criminal offence under a state or territory law	29	18	16
Total	76	57	38

Other possible misconduct

- 57 'Other possible misconduct' relates to persons who have taken part in the formation, promotion, administration, management or winding up of the company: see Table 21. A further 166 instances of other possible misconduct were reported in 2009–2010 (1.1% of overall breaches).

Table 21: Initial external administrators' reports—Other possible misconduct (1 July 2009–30 June 2010)

	No. of breaches	Evidence with liquidator	Evidence with other
May have misapplied or retained, or may have become liable or accountable for money or property of the company	69	44	23
May have been guilty of negligence, default, breach of duty or breach of trust in relation to the company	97	81	16
Total	166	125	39

Referred to other authorities

- 58 For reports where possible misconduct was reported, 107 reports in 2009–2010 indicated the external administrator had or was intending to refer the matter to another authority. The highest three number of referrals were to state or territory police (30 reports), the Australian Tax Office (27 reports) and from the 'Other' category—Creditors (15 reports).

Books and records

- 59 External administrators indicated they had obtained or inspected the company's books and records in 5,895 reports (74.6%) in 2009–2010. Of these, 3,504 reports indicated that the company's books and records were considered adequate.

Assetless Administration Fund

- 60 In 2009–2010, 517 of the 7,506 reports by a liquidator (as noted in Table 6) indicated the liquidator had made or was intending to make an application for funding from the Assetless Administration Fund (AA Fund).
- 61 The AA Fund was established by the Australian Government and is administered by ASIC. It finances preliminary investigations and reports by liquidators into the failure of companies with few or no assets, where it appears to ASIC that enforcement action may result from the investigation and report. A particular focus of the AA Fund is to curb fraudulent phoenix activity.

Liabilities and assets

- 62 External administrators provide estimates of the assets, liabilities and overall financial deficiency of companies they are reporting on. Table 22 shows the assets and liabilities categories and Table 23 shows the deficiency for the top 12 industries by reports lodged (as noted in Table 8).

Assets

- 63 Most reports (60.9%) showed that the companies had estimated assets of \$10,000 or less.
- 64 Of the top 12 industries, those with the greatest percentage of reports estimating assets of \$10,000 or less were FIS—Other financial services (75.9%), Other (business & personal) services (69.5%) and Construction (64.5%).
- 65 In 39.3% (3,105) of reports, the external administrator estimated the administration was assetless. Of the top 12 industries, those that most exceeded this percentage for assetless administrations (39.3%) were FIS—

Other financial services (57.6%), Other (business & personal) services (47%) and Rental, hiring & real estate services (45.7%).

- 66 On the other hand, 9.7% of reports estimated assets of over \$250,000. Of the top 12 industries, those well above this percentage were Rental, hiring & real estate services (19.7%), Wholesale trade (18.9%) and Agriculture, forestry & fishing (17.7%).

Note: In the 'Other industries' category, FIS—Managed investments (28.6%), Mining (25.6%), FIS—Credit provider (21.1%), Health care & social assistance (13.9%) and Administrative & support services (11.3%) all exceeded this percentage across all industries (9.7%), but made up only 5% of all reports.

Liabilities

- 67 In the 2009–2010 financial year, 45.8% of reports indicated that the estimated liabilities of the failed companies were \$250,000 or less and 75.5% indicated estimated liabilities less than \$1 million.

- 68 Of the top 12 industries, those with the greatest percentage of companies with estimated liabilities of \$250,000 or less were Other (business & personal) services (56.6%), Professional, scientific & technical services (50.9%) and Transport, postal & warehousing (50.8%).

- 69 A comparison of those industries with estimated liabilities over \$10 million reveals that the proportion of reports in that category across all industries (4.2%) was exceeded by FIS—Other financial services (27.6%), Agriculture, forestry & fishing (6.1%) and Rental, hiring & real estate services (5.1%).

Note: In the 'Other industries' category, FIS—Managed investments (42%), FIS—Credit provider (26.3%), Mining (25.6%) and Arts & recreation services (13%) all exceeded this percentage across all industries (4.2%), but made up only 4.1% of all reports.

Deficiency

- 70 Across all industries, 48.8% of reports estimated the shortfall between estimated assets and estimated liabilities was \$250,000 or less. When comparing the deficiency estimates between the top 12 industries, the three industries with the highest percentage of estimates at \$250,000 or less were Other (business & personal) services (58.8%), Transport, postal & warehousing (54.4%) and Professional, scientific & technical services (53.5%).

- 71 Only 3.8% of all reports estimated a deficiency of over \$10 million. Of the top 12 industries, the industry which most exceeded this percentage was FIS—Other financial services (28.1%).

Note: Four industries grouped in the 'Other industries' category exceeded this percentage across all industries (3.8%): FIS—Managed investments (42%), FIS—Credit provider (26.3%), Mining (25.6%) and Arts & recreation services (13%). However, when combined, these industries made up only 4.1% of reports.

Table 22: Initial external administrators' reports—Amount of assets and liabilities by industry (1 July 2009–30 June 2010)

	Construction	Other (business & personal) services	Retail trade	Accommodation & food services	Manufacturing	Transport, postal & warehousing	Information media & telecommunications	Rental, hiring & real estate services	Wholesale trade	FIS—Other financial services	Professional, scientific & technical services	Agriculture, forestry & fishing	Other industries	Total	% of total
Asset categories															
Less than \$1	760	816	300	214	126	170	65	107	52	117	59	58	261	3,105	39.3%
\$1–\$10,000	468	390	186	94	86	102	77	31	50	37	39	17	130	1,707	21.6%
\$10,001–\$20,000	149	145	79	68	52	49	24	17	20	8	13	13	58	695	8.8%
\$20,001–\$30,000	69	66	31	38	15	22	6	7	6	9	8	5	28	310	3.9%
\$30,001–\$50,000	72	80	63	31	45	27	15	10	14	5	7	7	28	404	5.1%
\$50,001–\$100,000	96	76	69	37	48	31	20	11	20	7	12	10	37	474	6.0%
\$100,001–\$250,000	91	67	45	30	60	40	23	5	22	5	8	11	35	442	5.6%
\$250,001–\$5 million	173	90	43	44	75	30	24	39	42	14	13	21	73	681	8.6%
Over \$5 million	27	5	2	5	4	1	0	7	1	1	0	5	27	85	1.1%
Total for industry	1,905	1,735	818	561	511	472	254	234	227	203	159	147	677	7,903	100.0%
Liability categories															
\$1–\$250,000	878	982	359	281	159	240	106	79	72	68	81	51	260	3,616	45.8%
\$250,001–less than \$1 million	547	480	302	180	178	149	80	65	78	41	39	35	180	2,354	29.8%
\$1 million–less than \$5 million	336	212	133	77	136	72	38	66	60	27	29	38	110	1,334	16.9%
\$5 million–\$10 million	69	41	10	8	20	7	21	12	10	11	6	14	35	264	3.3%
Over \$10 million	75	20	14	15	18	4	9	12	7	56	4	9	92	335	4.2%
Total for industry	1,905	1,735	818	561	511	472	254	234	227	203	159	147	677	7,903	100.0%

Note: 'Other industries' includes Administrative & support services, Arts & recreation services, Education & training, Electricity, gas, water & waste services, remaining Financial & insurance services sub-categories (Credit provider, Deposit taking institutions, Insurance, Managed investments and Superannuation), Health care & social assistance, Mining and Public administration & safety.

Table 23: Initial external administrators' reports—Amount of deficiency by industry (1 July 2009–30 June 2010)

	Construction	Other (business & personal) services	Retail trade	Accommodation & food services	Manufacturing	Transport, postal & warehousing	Information media & telecommunications	Rental, hiring & real estate services	Wholesale trade	FIS—Other financial services	Professional, scientific & technical services	Agriculture, forestry & fishing	Other industries	Total	% of total
\$0–\$50,000	358	427	128	94	38	91	25	27	27	18	24	22	101	1,380	17.5%
\$50,001–\$250,000	570	593	253	204	140	166	90	62	60	56	61	37	181	2,473	31.3%
\$250,001–less than \$500,000	322	296	169	104	102	84	37	37	39	17	22	15	97	1,341	17.0%
\$500,000–less than \$1 million	227	174	127	74	80	59	38	31	39	17	17	19	80	982	12.4%
\$1 million–less than \$5 million	310	192	118	65	118	64	38	56	50	27	25	33	100	1,196	15.1%
\$5 million–\$10 million	61	33	10	7	20	4	17	11	8	11	6	15	29	232	2.9%
Over \$10 million	57	20	13	13	13	4	9	10	4	57	4	6	89	299	3.8%
Total for industry	1,905	1,735	818	561	511	472	254	234	227	203	159	147	677	7,903	100.0%

Note: 'Other industries' includes Administrative & support services, Arts & recreation services, Education & training, Electricity, gas, water & waste services, remaining Financial & insurance services sub-categories (Credit provider, Deposit taking institutions, Insurance, Managed investments and Superannuation), Health care & social assistance, Mining and Public administration & safety.

Employee entitlements

72 In all categories of employee entitlements (i.e. wages, annual leave, pay in lieu of notice, redundancy, long service leave and superannuation), 'Not applicable' was selected in the majority of reports: see Table 24 and Table 25. 'Not applicable' means that no amount of entitlement of that type was unpaid to employee creditors as at the date of the appointment of the external administrator.

Table 24: Initial external administrators' reports—Amounts owed in unpaid employee entitlements (1 July 2009–30 June 2010)

	Unpaid wages		Unpaid annual leave		Unpaid pay in lieu of notice		Unpaid redundancy		Unpaid long service leave	
	No.	%	No.	%	No.	%	No.	%	No.	%
\$1–\$1,000	302	3.8%	217	2.8%	212	2.7%	189	2.4%	191	2.4%
\$1,001–\$10,000	1,009	12.8%	996	12.7%	472	6.0%	182	2.3%	213	2.7%
\$10,001–\$50,000	464	5.9%	672	8.5%	362	4.6%	219	2.8%	245	3.1%
\$50,001–\$150,000	132	1.7%	210	2.7%	110	1.4%	126	1.6%	72	0.9%
\$150,001–\$250,000	44	0.6%	51	0.6%	25	0.3%	41	0.5%	31	0.4%
\$250,001–\$500,000	24	0.3%	22	0.3%	10	0.1%	24	0.3%	12	0.2%
\$500,001–less than \$1.5 million	9	0.1%	15	0.2%	11	0.1%	21	0.3%	7	0.1%
\$1.5 million–\$5 million	1	0.0%	9	0.1%	7	0.1%	8	0.1%	3	0.0%
Over \$5 million	1	0.0%	2	0.0%	9	0.1%	11	0.1%	3	0.0%
Not applicable	5,886	74.8%	5,678	72.1%	6,654	84.5%	7,051	89.6%	7,095	90.1%
Total	7,872	100.0%	7,872	100.0%	7,872	100.0%	7,872	100.0%	7,872	100.0%

Note: 31 reports identified as being internally inconsistent were excluded from this table.

Unpaid wages

73 74.8% of reports showed unpaid wages as not applicable. In 16.7% of reports, it was estimated that employees were owed \$1 to \$10,000 in unpaid wages. Categories from \$10,001 to over \$5 million made up 8.6% of reports.

Unpaid annual leave

74 In all, 72.1% of reports showed unpaid annual leave as not applicable. In 15.4% of cases, employees were owed \$1 to \$10,000, and 23.9% of companies owed \$50,000 or less. 3.9% of reports showed entitlements for unpaid annual leave over \$50,000.

Unpaid pay in lieu of notice

- 75 Again, unpaid pay in lieu of notice was not applicable in most cases (84.5%). Only 2.2% of reports showed entitlements for unpaid pay in lieu of notice over \$50,000.

Unpaid redundancy

- 76 Unpaid redundancy was not applicable in 89.6% of reports. In all, 4.7% of reports showed employees were owed \$1 to \$10,000 in redundancy payments.
- 77 Only 0.1% of reports showed unpaid redundancy of over \$5 million.

Unpaid long service leave

- 78 5.1% of reports showed employees were owed \$1 to \$10,000 in unpaid long service leave, and unpaid long service leave of \$1.5 million or more was estimated in only 0.1% of reports.
- 79 The majority of reports (90.1%) indicated a long service leave debt was not applicable.

Unpaid superannuation

- 80 Due to the different value categories of superannuation entitlements, these figures are shown separately in Table 25. The results show a similar pattern to other employee entitlements with a large number (61.4%) of reports showing unpaid superannuation as not applicable.

Table 25: Initial external administrators' reports—Amounts owed in unpaid superannuation entitlements (1 July 2009–30 June 2010)

	No.	%
\$1–\$100,000	2,734	34.6%
\$100,001–\$250,000	232	2.9%
\$250,001–\$1 million	72	0.9%
Over \$1 million	13	0.2%
Not applicable	4,852	61.4%
Total	7,903	100.0%

Note: No reports were identified as being internally inconsistent.

Secured creditors

- 81 Table 26 and Figure 4 show the amounts owed to secured creditors by industry. Most reports for 2009–2010 (66.5%) indicated that nothing was owed to secured creditors.
- 82 A significant proportion (22.8%) of 2009–2010 reports showed secured creditors were owed between \$1 and less than \$1 million.
- 83 A comparison of those industries where secured creditors were owed less than \$1 million reveals that the proportion of reports in that category across all industries (89.3%) was most exceeded by Professional, scientific & technical services (96.2%), Other (business & personal) services (94.6%), and equal third, Accommodation & food services and Transport, postal & warehousing (93.9%).
- 84 3.5% of reports showed more than \$10 million was owed to secured creditors.
- 85 Three industries which significantly exceeded this percentage of reports across all industries with amounts owed to secured creditors over \$10 million (3.5% or 275 reports) were FIS—Managed investments (26.8% or 30 reports), FIS—Other financial services (25.6% or 52 reports) and Mining (23.3% or 20 reports). FIS—Managed investments and Mining are grouped in 'Other industries'.

Unpaid taxes and charges

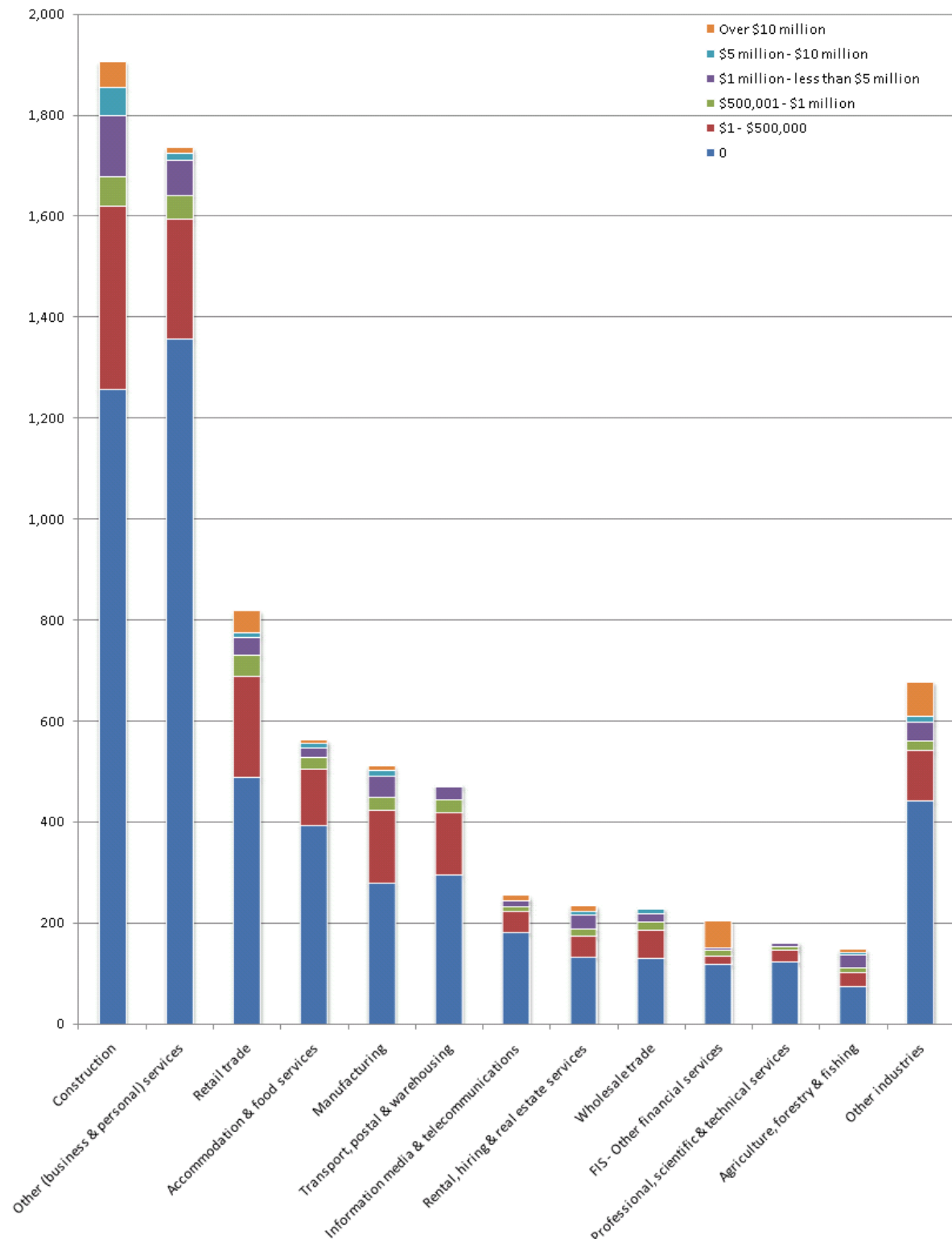
- 86 Most reports (87.6%) indicated that the amount of unpaid taxes and charges was \$250,000 or less.
- 87 Of the top 12 industries, Retail trade most exceeded this percentage of reports owing \$250,000 or less in unpaid taxes and charges with 94%.
- 88 Of the top 12 industries, Agriculture, forestry & fishing had the highest percentage of unpaid taxes and charges over \$1 million (4.1%) compared to the percentage across all industries of 2.4%: see Table 27.

Note: In the 'Other industries' category, the three industries that most exceeded this percentage across all industries (2.4%) of unpaid taxes and charges of over \$1 million were Public administration & safety (7.7%), Administrative & support services (7%) and Mining (4.7%). These industries represented 2.4% of all reports.

Table 26: Initial external administrators' reports—Amount owed to secured creditors by industry (1 July 2009–30 June 2010)

	Construction	Other (business & personal) services	Retail trade	Accommodation & food services	Manufacturing	Transport, postal & warehousing	Information media & telecommunications	Rental, hiring & real estate services	Wholesale trade	FIS—Other financial services	Professional, scientific & technical services	Agriculture, forestry & fishing	Other industries	Total	% of total
\$0	1,257	1,356	487	393	278	294	180	132	128	117	121	74	441	5,258	66.5%
\$1–less than \$500,000	362	238	201	111	144	124	42	41	56	17	25	27	99	1,487	18.8%
\$500,000–less than \$1 million	59	47	42	23	27	25	9	13	18	11	7	10	20	311	3.9%
\$1 million–less than \$5 million	121	70	35	19	40	26	11	30	15	6	5	24	37	439	5.6%
\$5 million–\$10 million	56	13	8	8	12	2	2	6	9	0	0	5	12	133	1.7%
Over \$10 million	50	11	45	7	10	1	10	12	1	52	1	7	68	275	3.5%
Total for industry	1,905	1,735	818	561	511	472	254	234	227	203	159	147	677	7,903	100.0%

Note: 'Other industries' includes Administrative & support services, Arts & recreation services, Education & training, Electricity, gas, water & waste services, remaining Financial & insurance services sub-categories (Credit provider, Deposit taking institutions, Insurance, Managed investments and Superannuation), Health care & social assistance, Mining and Public administration & safety.

Figure 4: Initial external administrators' reports—Amount owed to secured creditors by industry (1 July 2009–30 June 2010)

Note: 'Other industries' includes Administrative & support services, Arts & recreation services, Education & training, Electricity, gas, water & waste services, remaining Financial & insurance services sub-categories (Credit provider, Deposit taking institutions, Insurance, Managed investments and Superannuation), Health care & social assistance, Mining and Public administration & safety.

Table 27: Initial external administrators' reports—Amount owed in unpaid taxes and charges by industry (1 July 2009–30 June 2010)

	Construction	Other (business & personal) services	Retail trade	Accommodation & food services	Manufacturing	Transport, postal & warehousing	Information media & telecommunications	Rental, hiring & real estate services	Wholesale trade	FIS—Other financial services	Professional, scientific & technical services	Agriculture, forestry & fishing	Other industries	Total	% of total
\$0	432	427	188	100	96	97	47	60	52	97	22	48	197	1,863	23.6%
\$1–\$250,000	1,199	1,072	581	408	351	316	161	135	156	90	123	81	389	5,062	64.1%
\$250,001–\$1 million	209	191	42	50	54	51	41	32	15	11	9	12	70	787	10.0%
Over \$1 million	65	45	7	3	10	8	5	7	4	5	5	6	21	191	2.4%
Total for industry	1,905	1,735	818	561	511	472	254	234	227	203	159	147	677	7,903	100.0%

Note: 'Other industries' includes Administrative & support services, Arts & recreation services, Education & training, Electricity, gas, water & waste services, remaining Financial & insurance services sub-categories (Credit provider, Deposit taking institutions, Insurance, Managed investments and Superannuation), Health care & social assistance, Mining and Public administration & safety.

Unsecured creditors

Number of unsecured creditors

- 89 Most reports for 2009–2010 (86.3%) indicated the company had 50 or less unsecured creditors. Of the top 12 industries, those which had the greatest percentages of 50 or less unsecured creditors were FIS—Other financial services (93.6%), Professional, scientific & technical services (92.5%) and Other (business & personal) services (92.1%). See Table 28.

Amount owed to unsecured creditors

- 90 The majority (59.6%) of companies owed less than \$250,000 to unsecured creditors. Of the top 12 industries, the three which had the greatest percentage of companies in this category were Other (business & personal) services (72.7%), Transport, postal & warehousing (67.6%) and Accommodation & food services (63.5%).
- 91 The three industries with the highest number of reports where companies owed more than \$10 million to unsecured creditors were FIS—Other financial services (55 reports), FIS—Managed investments (33 reports), which is included in 'Other Industries', and Construction (20 reports).

Note: In the 'Other industries' category, Mining showed the fourth highest number of reports (18 reports) where companies owed more than \$10 million to unsecured creditors.

Amounts owed to related parties

- 92 Of the total amount owed to unsecured creditors, 18.8% of lodgements reported that more than 50% of the debt was owed to related parties. Of the top 12 industries, those with the greatest percentage of reports showing more than 50% owed to related parties were Retail trade (25.3%), Manufacturing (24.9%) and Accommodation & food services (24.8%).

Note: Of those listed in 'Other industries', five exceeded this percentage across all industries (18.8%): Mining (47.7%), FIS—Credit provider (42.1%), Health care & social assistance (25.9%), FIS—Managed investments (23.2%) and Public administration & safety (23.1%).

Cents in the dollar dividend

- 93 In 2009–2010, the dividend estimated to be payable to unsecured creditors was less than 11 cents in the dollar for most reports (97.2%). Of the top 12 industries, the top three with an estimated return of less than 11 cents in the dollar were FIS—Other financial services (98.5%), Retail trade (97.9%), and equal third, Construction and Information media & telecommunications

(97.6% each). 'Other industries' includes four industries where 100% estimated less than 11 cents in the dollar: Health care & social assistance (108 reports), Public administration & safety (13 reports), FIS—Insurance (12 reports) and FIS—Superannuation (2 reports).

- 94 Of the top 12 industries, the two industries with the greatest percentage of estimated returns of more than 50 cents in the dollar to unsecured creditors were Wholesale trade (1.3%) and FIS—Other financial services (1%), compared to the proportion across all industries of 0.6%: see Table 29.

Table 28: Initial external administrators' reports—Number of unsecured creditors, amount owed and reports where > 50% is owed to related parties by industry (1 July 2009–30 June 2010)

	Construction	Other (business & personal) services	Retail trade	Accommodation & food services	Manufacturing	Transport, postal & warehousing	Information media & telecommunications	Rental, hiring & real estate services	Wholesale trade	FIS—Other financial services	Professional, scientific & technical services	Agriculture, forestry & fishing	Other industries	Total	% of total
Number of unsecured creditors															
Less than 25	1,460	1,468	517	385	270	359	181	193	137	183	128	107	517	5,905	74.7%
25–50	180	130	165	92	108	51	29	18	45	7	19	14	54	912	11.5%
51–200	201	71	113	71	116	40	29	12	36	7	11	20	66	793	10.0%
More than 200	18	7	8	3	9	5	5	1	3	2	0	1	23	85	1.1%
Unknown	46	59	15	10	8	17	10	10	6	4	1	5	17	208	2.6%
Total for industry	1,905	1,735	818	561	511	472	254	234	227	203	159	147	677	7,903	100.0%
Amount owed to unsecured creditors															
Less than \$250,000	1,126	1,261	451	356	229	319	128	130	104	88	98	77	347	4,714	59.6%
\$250,000–\$500,000	270	207	151	82	95	60	43	34	43	18	21	17	87	1,128	14.3%
\$500,001–less than \$1 million	230	123	121	68	76	44	35	24	27	14	16	14	78	870	11.0%
\$1 million–less than \$5 million	229	121	84	43	92	45	31	38	45	19	18	28	92	885	11.2%
\$5 million–\$10 million	30	16	8	4	13	3	13	4	7	9	3	9	18	137	1.7%
Over \$10 million	20	7	3	8	6	1	4	4	1	55	3	2	55	169	2.1%
Total for industry	1,905	1,735	818	561	511	472	254	234	227	203	159	147	677	7,903	100.0%
Amounts owed to related parties															
> 50% owed to related parties	257	302	207	139	127	55	52	52	44	33	37	29	150	1,484	18.8%
% of reports lodged for industry	13.5%	17.4%	25.3%	24.8%	24.9%	11.7%	20.5%	22.2%	19.4%	16.3%	23.3%	19.7%	22.2%		

Note: 'Other industries' includes Administrative & support services, Arts & recreation services, Education & training, Electricity, gas, water & waste services, remaining Financial & insurance services sub-categories (Credit provider, Deposit taking institutions, Insurance, Managed investments and Superannuation), Health care & social assistance, Mining and Public administration & safety.

**Table 29: Initial external administrators' reports—Amount payable to unsecured creditors—Cents in the dollar dividend by industry
(1 July 2009–30 June 2010)**

	Construction	Other (business & personal) services	Retail trade	Accommodation & food services	Manufacturing	Transport, postal & warehousing	Information media & telecommunications	Rental, hiring & real estate services	Wholesale trade	FIS—Other financial services	Professional, scientific & technical services	Agriculture, forestry & fishing	Other industries	Total	% of total
0 cents	1,785	1,646	735	510	460	432	231	224	205	190	149	137	636	7,340	92.9%
Greater than 0 but less than 11 cents	74	46	66	30	31	25	17	3	13	10	2	6	21	344	4.4%
11–20 cents	16	11	5	6	11	6	1	2	2	1	6	1	7	75	0.9%
21–50 cents	17	20	10	10	8	8	3	4	4	0	2	2	8	96	1.2%
51–100 cents	13	12	2	5	1	1	2	1	3	2	0	1	5	48	0.6%
Total for industry	1,905	1,735	818	561	511	472	254	234	227	203	159	147	677	7,903	100.0%

Note: 'Other industries' includes Administrative & support services, Arts & recreation services, Education & training, Electricity, gas, water & waste services, remaining Financial & insurance services sub-categories (Credit provider, Deposit taking institutions, Insurance, Managed investments and Superannuation), Health care & social assistance, Mining and Public administration & safety.

Completion of external administration

- 95 In the opinion of external administrators, the majority of external administrations (70.1%) were expected to be completed within six months of the date of lodging their report. This was in addition to the time already taken to lodge the report. Table 5 in this section shows that 23% of reports were lodged more than 12 months after the external administrator's appointment.

**Table 30: Initial external administrators' reports—
Expected time to complete the external administration
(1 July 2009–30 June 2010)**

	No.	%
0–less than 3 months	2,927	37.0%
3–less than 6 months	2,616	33.1%
6 months–1 year	1,753	22.2%
Over 1 year	607	7.7%
Total	7,903	100.0%

Proposed action

Public examinations

- 96 In 207 reports (2.6%), the external administrator noted that they were intending to hold public examinations to question a company's directors about the affairs of the company.

Recovery proceedings

- 97 Recovery proceedings for property or compensation for the benefit of creditors under Pt 5.7B of the Corporations Act either had been initiated or their initiation had been considered in 1,421 (18%) of all reports.

Company officers

- 98 External administrators advised in 456 reports (5.8%) that, in their opinion, there were shadow directors.

External administrator's remuneration

- 99 Excluding the \$0 and not applicable results, the most common category of external administrator's estimated collectible fees was liquidator fees, with 5,357 reports. Of these, 4,791 reports estimated collectible liquidator fees between \$1 and \$50,000.
- 100 Of the reports that completed the voluntary administration fees question, 873 estimated the collectible fees to be between \$1 and \$50,000.

Table 31: Initial external administrators' reports—External administrator's remuneration (1 July 2009–30 June 2010)

	Voluntary administration fees		Deed of company arrangement fees		Liquidator fees		Receiver/ controller fees	
	No.	%	No.	%	No.	%	No.	%
\$0	906	11.5%	921	11.7%	2,342	29.6%	937	11.9%
\$1–\$50,000	873	11.0%	119	1.5%	4,791	60.6%	36	0.5%
\$50,001–\$100,000	175	2.2%	9	0.1%	380	4.8%	22	0.3%
\$100,001–\$250,000	83	1.1%	6	0.1%	134	1.7%	14	0.2%
Over \$250,000	37	0.5%	8	0.1%	52	0.7%	23	0.3%
Not applicable	5,829	73.8%	6,840	86.5%	204	2.6%	6,871	86.9%
Total	7,903	100.0%	7,903	100.0%	7,903	100.0%	7,903	100.0%

Note: More than one fee type may be entered if the appointee has been, is or expects to be appointed to more than one type of role in relation to the company.

E Initial external administrators' reports 2008–2009

101 For the year ended 30 June 2009, initial external administrators' reports made up 92.4% (or 7,733 reports) of the total number of external administrator statutory reports lodged: see Table 2 and Table 3 in Section C. This compares to 89.9% (or 6,933 reports) in 2007–2008.

Key points

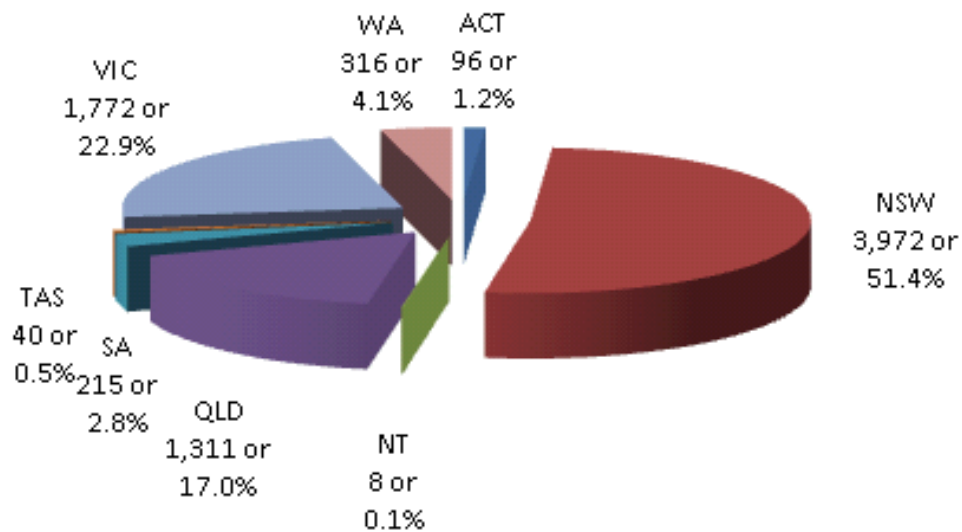
Initial external administrators' reports disclosed the following material movements in 2008–2009 from the previous financial year:

- External administrators increased lodgement of reports within six months of appointment from 41.5% to 53% of reports. The number of reports lodged more than 12 months after their appointment decreased to 22.3% from 28.9% of reports.
- Companies where the number of employees is not known increased from 16.8% to 20.3% of reports.
- Reports of companies failing due to poor economic conditions increased from 9.1% to 16.6% of reports.
- Companies where the estimated liabilities were less than \$1 million fell from 84% to 80.6% of reports.
- Companies with unpaid superannuation not being applicable fell from 68% to 64.7% of reports, while companies with unpaid superannuation of \$1–\$100,000 increased from 29.2% to 32.3% of reports.
- Companies where external administrators expected the time to completion was less than three months decreased from 40.5% to 36.6% of reports.
- The \$0 remuneration category decreased for voluntary administrators (19.6% to 12.8%), deed administrators (23.9% to 13.4%) and receivers/controllers (24.1% to 13.7%).
- Remuneration category of \$1–\$50,000 for voluntary administrators decreased from 20.4% to 13.8%.

Note: All other reported figures have not changed by three percentage points or more from the previous financial year.

Lodgements by region

102 More than half the reports in 2008–2009 related to New South Wales registered companies (3,972 reports or 51.4%), followed by Victoria (1,772 reports or 22.9%) and Queensland (1,311 reports or 17%). The five remaining states and territories make up 8.7% of reports.

Figure 5: Initial external administrators' reports by region (1 July 2008–30 June 2009)

Note: Three companies with international registered addresses are not included in regional statistics.

Lodgement period

- 103 In the year ended 30 June 2009, 53% of reports were lodged within six months of the external administrator's appointment. 22.3% were lodged more than 12 months after appointment: see Table 32.
- 104 The result may be distorted by instances where the first electronically lodged report was not the first report lodged.

Table 32: Initial external administrators' reports by lodgement period (1 July 2008–30 June 2009)

	No.	%
Less than 2 months	963	12.5%
Between 2 and 5 months	3,138	40.6%
Between 6 and 12 months	1,910	24.7%
More than 12 months	1,722	22.3%
Total	7,733	100.0%

Note: Liquidators appointed from 1 January 2008 must lodge reports as soon as practicable, and in any event within six months, after it so appears to him or her that any of the conditions in s533 apply.

Section lodged under

- 105 Most reports in 2008–2009 (94.7%) were lodged by liquidators for the purpose of complying with s533 of the Corporations Act: see Table 33.

Table 33: Initial external administrators' reports by section of the Corporations Act (1 July 2008–30 June 2009)

	No.	%
Section 422 (reports by receiver)	89	1.2%
Section 438D (reports by administrator)	295	3.8%
Section 533 (reports by liquidator)	7,327	94.7%
Statistical purposes	22	0.3%
Total	7,733	100.0%

Size of company

- 106 The number of employees or the number of full-time equivalent employees is used as a measure of the size of the company. In 2008–2009, 75.2% of reports related to companies with less than 20 employees: see Table 34.
- 107 The reason for the three percentage point decrease compared to 2007–2008 appears to be the increase in the number of companies where the size of the company is not known, from 16.8% to 20.3%.

Table 34: Initial external administrators' reports—Size of company as measured by number of FTEs (1 July 2008–30 June 2009)

	No.	%
Less than 5 FTE	4,679	60.5%
Between 5 and 19 FTE	1,136	14.7%
Between 20 and 199 FTE	345	4.5%
200 or more FTE	7	0.1%
Not known	1,566	20.3%
Total	7,733	100.0%

Note: FTE = Full-time equivalent employees.

Industry

108 The industries with the highest number of reports lodged were Other (business & personal) services (1,787 reports or 23.1%), Construction (1,760 reports or 22.8%) and Retail trade (904 reports or 11.7%): see Table 35.

Table 35: Initial external administrators' reports by industry type (1 July 2008–30 June 2009)

	No.	%
Other (business & personal) services	1,787	23.1%
Construction	1,760	22.8%
Retail trade	904	11.7%
Accommodation & food services	531	6.9%
Manufacturing	506	6.5%
Transport, postal & warehousing	457	5.9%
Wholesale trade	262	3.4%
Information media & telecommunications	257	3.3%
Rental, hiring & real estate services	210	2.7%
Financial & insurance services (FIS)—Other financial services	164	2.1%
Agriculture, forestry & fishing	150	1.9%
Professional, scientific & technical services	149	1.9%
Arts & recreation services	111	1.4%
Electricity, gas, water & waste services	106	1.4%
Health care & social assistance	86	1.1%
Administrative & support services	85	1.1%
Financial & insurance services (FIS)—Managed investments	65	0.8%
Education & training	53	0.7%
Mining	40	0.5%
Financial & insurance services (FIS)—Credit provider	20	0.3%
Financial & insurance services (FIS)—Insurance	13	0.2%
Public administration & safety	13	0.2%
Financial & insurance services (FIS)—Superannuation	3	0.0%
Financial & insurance services (FIS)—Deposit taking institutions	1	0.0%
Total	7,733	100.0%

Note: A number of amendments to the Schedule B report format were implemented in 1 July 2008, including changes to industry categories, which were updated to align with 2006 ANZSIC divisions. For details, see Section B.

Nominated causes of failure

- 109 There is commonly more than one reason for a company's failure. External administrators nominated an average of 2.29 causes of failure per report in 2008–2009.
- 110 The top three nominated causes of failure for companies (see Table 36 and Table 37) were:
- poor strategic management of business (3,317 or 42.9% of reports);
 - inadequate cash flow or high cash use (2,943 or 38.1% of reports); and
 - poor financial control including lack of records (2,596 or 33.6% of reports).
- 111 Of the top 12 industries, the three industries which most exceeded the percentage of reports for these three causes of failure were:
- *poor strategic management of business*: Agriculture, forestry & fishing (49.3% of reports), Retail trade (48.8% of reports) and Transport, postal & warehousing (46.8% of reports);
- Note: A number of industries grouped in the 'Other industries' category exceeded the average 42.9% of reports for poor strategic management of business. The top six of these were FIS—Superannuation (66.7% of reports), Education & training (60.4% of reports), FIS—Credit provider (55% of reports), FIS—Managed investments (52.3% of reports), Health care & social assistance (47.7% of reports) and Electricity, gas, water & waste services (46.2% of reports).
- *inadequate cash flow or high cash use*: Information media & telecommunications (49% of reports), Rental, hiring & real estate services (41.9% of reports) and Manufacturing (41.7% of reports);
 - *poor financial control including lack of records*: Transport, postal & warehousing (37.4% of reports), Construction (37.2% of reports) and Rental, hiring & real estate services (36.2% of reports).
- 112 Five states and territories, which make up 93% of reports, shared the same top cause of failure: Australian Capital Territory, New South Wales, Queensland Tasmania and Victoria. See Table 36.

Table 36: Initial external administrators' reports—Nominated causes of failure by industry (1 July 2008–30 June 2009)

	Other (business & personal) services	Construction	Retail trade	Accommodation & food services	Manufacturing	Transport, postal & warehousing	Wholesale trade	Information media & telecommunications	Rental, hiring & real estate services	FIS—Other financial services	Agriculture, forestry & fishing	Professional, scientific & technical services	Other industries	Total
Under capitalisation	313	395	210	116	129	87	68	56	52	34	33	29	121	1,643
Poor financial control including lack of records	635	655	267	176	151	171	87	61	76	46	41	47	183	2,596
Poor management of accounts receivable	176	296	88	14	78	52	44	75	21	17	16	35	64	976
Poor strategic management of business	716	714	441	222	223	214	119	88	93	67	74	68	278	3,317
Inadequate cash flow or high cash use	605	651	376	212	211	187	109	126	88	55	55	62	206	2,943
Poor economic conditions	208	288	216	85	106	94	43	17	30	35	47	16	100	1,285
Natural disaster	1	5	9	5	4	2	1	0	0	0	6	0	4	37
Fraud	21	19	13	7	20	7	7	6	6	5	4	2	19	136
DOCA failed	8	14	7	2	4	3	0	0	1	1	1	0	6	47
Dispute among directors	53	55	37	29	19	7	12	9	16	8	4	12	20	281
Trading losses	445	485	359	209	203	150	105	59	57	28	48	39	167	2,354
Industry restructuring	27	18	19	5	13	10	9	2	0	1	5	2	4	115
Other	450	418	195	114	147	100	63	96	52	74	38	39	173	1,959
Nominated causes of failure by industry	3,658	4,013	2,237	1,196	1,308	1,084	667	595	492	371	372	351	1,345	17,689

Note: 'Other industries' includes Administrative & support services, Arts & recreation services, Education & training, Electricity, gas, water & waste services, remaining Financial & insurance services sub-categories (Credit provider, Deposit taking institutions, Insurance, Managed investments and Superannuation), Health care & social assistance, Mining and Public administration & safety.

Table 37: Initial external administrators' reports—Nominated causes of failure by region (1 July 2008–30 June 2009)

	ACT	NSW	NT	QLD	SA	TAS	VIC	WA	Total
Under capitalisation	26	796	2	280	63	12	378	85	1,642
Poor financial control including lack of records	32	1,554	2	346	58	9	473	120	2,594
Poor management of accounts receivable	16	493	1	184	22	5	209	46	976
Poor strategic management of business	51	1,592	1	631	101	24	793	122	3,315
Inadequate cash flow or high cash use	35	1,402	4	536	79	10	727	149	2,942
Poor economic conditions	10	718	1	237	38	3	239	39	1,285
Natural disaster	0	14	0	10	0	0	11	2	37
Fraud	3	64	0	26	4	1	29	9	136
DOCA failed	3	24	0	9	2	1	5	3	47
Dispute among directors	7	109	0	57	11	3	76	17	280
Trading losses	25	1,120	3	407	115	16	535	133	2,354
Industry restructuring	0	32	1	9	10	4	56	3	115
Other	28	934	3	340	62	6	478	108	1,959
Total	236	8,852	18	3,072	565	94	4,009	836	17,682

Note: Causes of failure for companies with international registered addresses are not included in regional statistics.

Possible misconduct

113 The Schedule B report format was revised from 1 July 2008. One of the main changes to the report was in the way we ask questions about possible misconduct. For each breach, we ask the external administrator to indicate whether they or a third party had documentary evidence to support the allegation. Because of these changes, 2008–2009 is the first year we have been able to provide meaningful statistics, which have been included in this report.

114 Possible misconduct was alleged in 5,092 reports (65.8%) in 2008–2009: see Table 38. External administrators reported 14,478 possible breaches at an average of 2.84 breaches per report where possible misconduct was reported.

Table 38: Initial external administrators' reports—Possible misconduct (1 July 2008–30 June 2009)

	No. of reports	% of reports	No. of breaches
No misconduct reported	2,641	34.2%	0
'Possible misconduct' reported	5,092	65.8%	14,478
Total	7,733	100.0%	14,478

115 We asked the external administrator to prepare either a supplementary s422, 438D or 533 report for 309 of the 5,092 reports (6.1%) for 2008–2009 where possible misconduct was identified.

116 Requests for a supplementary report is a function of our assessment of risk based on a number of inputs including, but not limited to, the nature of the misconduct reported, amount of the liabilities, deficiency suffered, availability of evidence, prior misconduct and the advice of the external administrator that the reported possible misconduct warrants further investigation.

117 Alleged criminal misconduct has been split between alleged misconduct occurring before the appointment of the external administrator (pre-appointment criminal misconduct) and post-appointment criminal misconduct related to directors' and officers' failure to assist the liquidator: see Table 38. In 2008–2009, 25.1% of all reported misconduct related to post-appointment criminal misconduct.

118 Alleged breaches of civil obligations are the most common breaches (8,791 or 60.7% of all possible misconduct). For a detailed analysis of civil breaches by section of the Corporations Act, industry and region, see Table 44 and Table 46.

Table 39: Initial external administrators' reports—Categories of possible misconduct (1 July 2008–30 June 2009)

	No. of breaches	% of breaches
Alleged criminal misconduct under Corporations Act by officers or employees:		
• pre-appointment criminal misconduct	1,805	12.5%
• post-appointment criminal misconduct	3,637	25.1%
Alleged breaches of civil obligations	8,791	60.7%
Other criminal offences	84	0.6%
Other possible misconduct	161	1.1%
Total	14,478	100.0%

Note 1: 'Other criminal offences' includes offences by a member or contributory under the Corporations Act or offences under other Commonwealth statutes or state or territory laws.

Note 2: 'Other possible misconduct' relates to people who have taken part in the formation, promotion, administration, management or winding up of the company and may have:

- misapplied or retained, or become liable or accountable for, any money or property of the company; or
- been guilty of any negligence, default, breach of duty or trust in relation to the company.

Documentary evidence and further inquiry

119 External administrators confirmed they had documentary evidence for 3,003 reports (59%) of the 5,092 reports where they had identified an offence: see Table 41. Of these, they considered further enquiry by us into the alleged misconduct was warranted in only 691 reports, based on their assessment of the information and documentary evidence available.

120 Documentary evidence in the possession of a third party was identified in 489 reports. Based on this and their assessment, the external administrator recommended we make further enquiry in 174 reports.

Note: For 137 of the 174 reports where evidence was identified as being with a third party, the external administrator was also in possession of evidence. Therefore, these 137 reports were also included in the 691 reports where the external administrator recommended further inquiry was recommended.

Table 40: Initial external administrators' reports—Evidence with liquidator and further inquiry recommended by deficiency categories (1 July 2008–30 June 2009)

	Schedule C requested	Assessed & recorded	Total
\$0–\$50,000	6	44	50
\$50,001–\$250,000	25	132	157
\$250,001–less than \$500,000	28	101	129
\$500,000–less than \$1 million	26	79	105
\$1 million–less than \$5 million	44	118	162
\$5 million–\$10 million	15	15	30
Over \$10 million	30	28	58
Total	174	517	691

121 A further 313 reports indicated further inquiry was warranted. However, the breaches related to post-appointment criminal misconduct where a separate request for liquidator assistance is required. In addition, 182 reports indicated that further inquiry was required—however, no alleged misconduct was reported in those reports.

Table 41: Initial external administrators' reports—Possible pre-appointment misconduct (1 July 2008–30 June 2009)

	No. of reports	% of reports	No. of breaches
Liquidator has documentary evidence to support allegation			
Yes	3,003	38.8%	6,879
No	2,089	27.0%	3,962
Total	5,092	65.8%	10,841
Of those with documentary evidence, did the liquidator recommend further inquiry by ASIC?			
Yes	691	8.9%	
No	2,312	29.9%	
Total	3,003	38.8%	

	No. of reports	% of reports	No. of breaches
Liquidator is aware of another person with documentary evidence			
Yes	489	6.3%	1,391
No	4,603	59.5%	9,450
Total	5,092	65.8%	10,841
Where the evidence was with another person, did the liquidator recommend further inquiry by ASIC?			
Yes	174	2.3%	
No	315	4.1%	
Total	489	6.3%	

Note: 'Pre-appointment misconduct' refers to pre-appointment criminal misconduct, alleged breaches of civil obligations, other criminal offences and other possible misconduct.

Alleged criminal misconduct

Pre-appointment criminal misconduct

- 122 Statistics for alleged pre-appointment criminal misconduct are available by industry and region: see Table 43 and Table 45. The tables also show the number of reports where the external administrator is able to advise where evidence is available. Pre-appointment misconduct predominantly relates to the conduct of an officer or director of the company before the appointment of the external administrator.
- 123 External administrators had evidence in their possession for 1,220 possible criminal breaches out of 1,805 (67.6%) reported.
- 124 The top three nominated criminal breaches for companies for 2008–2009 were:
- Section 588G(3) Insolvent trading: 678 breaches reported (8.8% of reports);
 - Sections 286 and 344(2) Obligation to keep financial records: 534 breaches reported (6.9% of reports); and
 - Section 184 Good faith; use of position and use of information: 283 breaches reported (3.7% of reports).
- 125 Of the top 12 industries, the three industries which most exceeded the percentage of reports for these three nominated criminal breaches were:

- *Section 588G(3) Insolvent trading:* Retail trade (12.6% of reports), Manufacturing (10.9% of reports) and Wholesale trade (10.7% of reports);
- *Section 286/344(2) Obligation to keep financial records:* Rental, hiring & real estate services (9% of reports), Accommodation & food services (8.5% of reports) and Other (business & personal) services (7.3% of reports); and

Note: A number of industries grouped in the 'Other industries' category exceeded the average 6.9% of reports for Section 286/344(2) Obligation to keep financial records. The top five of these were FIS—Credit provider (20% of reports), FIS—Managed investments (18.6% of reports), FIS—Insurance (15.4% of reports), and Administrative & support services and Public administration & safety (7.7% of reports each).

- *Section 184 Good faith; use of position and use of information:* FIS—Other financial services (9.8% of reports), Rental, hiring & real estate services (5.7% of reports) and Manufacturing (4.5% of reports).

Note: A number of industries grouped in the 'Other industries' category exceeded the average 3.7% of reports for Section 184 Good faith; use of position and use of information. The top six of these were FIS—Superannuation (33.3% of reports), FIS—Credit provider (20% of reports), FIS—Insurance (15.4% of reports), FIS—Managed investments (10.5% of reports), Health care & social assistance (8.2% of reports) and Administrative & support services (7.7% of reports).

Post-appointment criminal misconduct

- 126 Alleged post-appointment criminal misconduct reported by external administrators relates to offices of the company failing to assist external administrators subsequent to their appointment: see Table 42. The 3,637 breaches in Table 42 relate to 1,823 reports or 23.6% of initial reports.
- 127 We assist external administrators in obtaining compliance by officers with their obligations to prepare a report as to company's affairs, provide books and records, and assist liquidators through our liquidator assistance program.

Table 42: Initial external administrators' reports—Possible post-appointment criminal misconduct by section of the Corporations Act (1 July 2008–30 June 2009)

	No. of breaches
Sections 429, 438B, 446C & 475 Report as to company's affairs	1,240
Section 530A Officers to help liquidator	1,035
Section 530B Requirement to provide liquidator with company's books	1,362
Total	3,637

Note: The Schedule B report format does not require external administrators to advise whether or not evidence is available given the nature of the misconduct being reported.

Alleged breaches of civil obligations

- 128 Statistics for alleged breaches of civil obligations are available by industry and region: see Table 44 and Table 46. The tables also show the number of reports where the external administrator is able to advise they have evidence to support their allegation. External administrators had evidence in their possession for 5,464 possible breaches of civil obligations out of 8,791 (62.2%) reported.
- 129 The top three nominated civil breaches for companies for 2008–2009 were:
- Section 588G(1)–(2) Insolvent trading: 3,141 breaches reported (40.6% of reports);
 - Sections 286 and 344(1) Obligation to keep financial records: 2,653 breaches reported (34.3% of reports); and
 - Section 180 Care and diligence—Directors' and officers' duties: 1,409 breaches reported (18.2% of reports).
- 130 Of the top 12 industries, the three industries which most exceeded the percentage of reports for these three nominated breaches of civil obligations were:
- *Section 588G(1)–(2) Insolvent trading*: Wholesale trade (50% of reports), Professional, scientific & technical services (47% of reports) and Manufacturing (45.1% of reports);
 - *Sections 286 and 344(1) Obligation to keep financial records*: equal first were Other (business & personal) services and Rental, hiring & real estate services (40% of reports each) and Construction (37.4% of reports); and
 - *Section 180 Care and diligence—Directors' and officers' duties*: FIS—Other financial services (23.8% of reports), Wholesale trade (20.2% of reports) and Accommodation & food services (19.8% of reports).
- Note: A number of industries grouped in the 'Other industries' category exceeded the average 18.2% of reports for Section 180 Care and diligence—Directors' and officers' duties. The top three of these were FIS—Credit provider (50% of reports), FIS—Managed investments (38.4% of reports) and FIS—Superannuation (33.3% of reports).

Table 43: Initial external administrators' reports—Possible pre-appointment criminal misconduct by section of the Corporations Act and industry (1 July 2008–30 June 2009)

	Other (business & personal) services	Construction	Retail trade	Accommodation & food services	Manufacturing	Transport, postal & warehousing	Wholesale trade	Information media & telecommunications	Rental, hiring & real estate services	FIS—Other financial services	Agriculture, forestry & fishing	Professional, scientific & technical services	Other industries	Total
Section 184 Good faith, use of position and use of information—Directors', officers' and employees' duties	42	49	38	16	23	15	11	7	12	16	4	6	44	283
Section 206A Disqualified persons not to manage corporations	12	12	4	4	2	4	1	0	0	0	4	0	6	49
Sections 286 & 344(2) Obligation to keep financial records	131	118	62	45	27	27	14	11	19	10	8	7	55	534
Section 471A Powers of other officers suspended during winding up	6	7	16	2	2	2	1	1	0	3	0	0	2	42
Section 588G(3) Insolvent trading	154	126	114	46	55	36	28	13	20	14	8	12	52	678
Section 590 Offences by officers or employees	19	26	26	8	15	13	7	5	7	6	3	2	17	154
Section 596AB Agreements to avoid employee entitlements	3	0	3	1	1	0	1	0	0	0	1	1	2	13
Other criminal offences under the Corporation Act	7	7	6	4	8	0	3	4	0	3	0	0	10	52
Total for industry	374	345	269	126	133	97	66	41	58	52	28	28	188	1,805

Note: 'Other industries' includes Administrative & support services, Arts & recreation services, Education & training, Electricity, gas, water & waste services, remaining Financial & insurance services sub-categories (Credit provider, Deposit taking institutions, Insurance, Managed investments and Superannuation), Health care & social assistance, Mining and Public administration & safety.

**Table 44: Initial external administrators' reports—Possible breaches of civil obligations by section of the Corporations Act and industry
(1 July 2008–30 June 2009)**

	Other (business & personal) services	Construction	Retail trade	Accommodation & food services	Manufacturing	Transport, postal & warehousing	Wholesale trade	Information media & telecommunications	Rental, hiring & real estate services	FIS—Other financial services	Agriculture, forestry & fishing	Professional, scientific & technical services	Other industries	Total
Section 180 Care and diligence—Directors' and officers' duties	287	305	173	105	94	80	53	47	41	39	23	28	134	1,409
Section 181 Good faith—Directors' and officers' duties	144	175	101	55	48	40	32	19	22	32	12	18	92	790
Section 182 Use of position—Directors', officers' and employees' duties	128	126	65	29	42	33	24	14	16	25	8	13	59	582
Section 183 Use of information—Directors', officers' and employees' duties	44	60	23	9	7	12	7	4	6	15	1	7	21	216
Sections 286 & 344(1) Obligation to keep financial records	714	659	252	181	147	155	82	71	84	48	36	41	183	2,653
Section 588G(1)–(2) Insolvent trading	693	716	387	209	228	192	131	91	81	60	54	70	229	3,141
Total for industry	2,010	2,041	1,001	588	566	512	329	246	250	219	134	177	718	8,791

Note: 'Other industries' includes Administrative & support services, Arts & recreation services, Education & training, Electricity, gas, water & waste services, remaining Financial & insurance services sub-categories (Credit provider, Deposit taking institutions, Insurance, Managed investments and Superannuation), Health care & social assistance, Mining and Public administration & safety.

**Table 45: Initial external administrators' reports—Possible pre-appointment criminal misconduct by section of the Corporations Act and region
(1 July 2008–30 June 2009)**

	ACT		NSW		NT		QLD		SA		TAS		VIC		WA		Total	
	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator
Section 184 Good faith; use of position and use of information—Directors', officers' and employees' duties	5	3	120	86	0	0	61	48	9	6	1	1	71	59	16	11	283	214
Section 206A Disqualified persons not to manage corporations	0	0	25	18	0	0	14	14	0	0	0	0	9	7	1	1	49	40
Sections 286 & 344(2) Obligation to keep financial records	8	2	291	159	2	1	78	46	7	4	5	3	127	74	16	13	534	302
Section 471A Powers of other officers suspended during winding up	1	0	13	9	0	0	17	17	0	0	0	0	7	7	4	4	42	37
Section 588G(3) Insolvent trading	14	5	304	187	2	2	152	109	11	9	9	7	161	113	25	21	678	453
Section 590 Offences by officers or employees	0	0	60	44	0	0	41	33	3	3	0	0	44	36	6	4	154	120
Section 596AB Agreements to avoid employee entitlements	1	0	4	4	0	0	1	0	0	0	0	0	7	5	0	0	13	9
Other criminal offences under the Corporations Act	1	1	26	24	0	0	9	8	0	0	1	1	14	11	1	0	52	45
Total	30	11	843	531	4	3	373	275	30	22	16	12	440	312	69	54	1,805	1,220

**Table 46: Initial external administrators' reports—Possible breaches of civil obligations by section of the Corporations Act and region
(1 July 2008–30 June 2009)**

	ACT		NSW		NT		QLD		SA		TAS		VIC		WA		Total	
	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator
Section 180 Care and diligence— Directors' and officers' duties	19	15	778	376	0	0	233	176	45	39	6	5	233	167	95	52	1,409	830
Section 181 Good faith—Directors' and officers' duties	12	10	383	247	0	0	158	123	22	21	1	0	161	128	53	35	790	564
Section 182 Use of position—Directors', officers' and employees' duties	10	9	261	187	0	0	101	78	27	25	0	0	138	111	45	33	582	443
Section 183 Use of information— Directors', officers' and employees' duties	1	0	107	67	0	0	40	31	2	2	0	0	47	35	19	15	216	150
Sections 286 & 344(1) Obligation to keep financial records	25	16	1,703	757	3	2	250	179	45	37	8	4	510	299	107	86	2,651	1,380
Section 588G(1)–(2) Insolvent trading	47	32	1,808	1101	2	2	378	293	89	75	15	11	666	480	135	103	3,140	2,097
Total	114	82	5,040	2,735	5	4	1,160	880	230	199	30	20	1,755	1,220	454	324	8,788	5,464

Note: Causes of failure for companies with international registered addresses are not included in regional statistics.

Other possible criminal offences

131 In 2008–2009, there were only 84 other possible criminal offences (0.6% of overall offences) by a member or contributory under the Corporations Act or offences under other Commonwealth statutes or state or territory laws. Of the 84, only 71 were possible offences of laws other than the Corporations Act: see Table 47.

Table 47: Initial external administrators' reports—Other possible criminal offences (1 July 2008–30 June 2009)

	No. of breaches	Evidence with liquidator	Evidence with other
Criminal offence under the Corporations Act (if a member or contributory)	13	10	5
Criminal offence under another Commonwealth statute	42	36	22
Criminal offence under a state or territory law	29	20	13
Total	84	66	40

Other possible misconduct

132 'Other possible misconduct' relates to persons who have taken part in the formation, promotion, administration, management or winding up of the company and are described in Table 48. A further 161 instances of other possible misconduct were reported in 2008–2009 or 1.1% of overall breaches.

Table 48: Initial external administrators' reports—Other possible misconduct (1 July 2008–30 June 2009)

	No. of breaches	Evidence with liquidator	Evidence with other
May have misapplied or retained, or may have become liable or accountable for money or property of the company	86	8	26
May have been guilty of negligence; default; breach of duty or breach of trust in relation to the company	75	60	21
Total	161	68	47

Referred to other authorities

- 133 Where possible misconduct was reported, 124 reports in 2008–2009 indicated the external administrator had or was intending to refer the matter to another authority. The highest three number of referrals were to the Australian Tax Office (41 reports), state or territory police (28 reports) and Fair Trading/Consumer Affairs (14 reports).

Books and records

- 134 External administrators indicated they had obtained or inspected the company's books and records in 5,697 reports (73.7%) in 2008–2009. Of these, 3,404 reports indicated that the company's books and records were considered adequate.

Assetless Administration Fund

- 135 In 2008–2009, 477 of the 7,327 reports by a liquidator (as noted in Table 33) indicated the liquidator had made or was intending to make an application for funding from the Assetless Administration Fund.

Liabilities and assets

- 136 External administrators provide estimates of the assets, liabilities and overall financial deficiency of companies they are reporting on. Table 49 shows the assets and liabilities categories. Table 50 shows the deficiency for the top 12 industries by reports lodged (as noted in Table 35).

Assets

- 137 Most reports (62.7%) showed that the companies had estimated assets of \$10,000 or less.
- 138 Of the top 12 industries, those with the greatest percentage of reports estimating assets of \$10,000 or less were Other (business & personal) services (72.1%), FIS—Other financial services (70.1%) and Information media & telecommunications (69.6%).
- 139 In 42.3% (3,272) of reports, the external administrator estimated the administration was assetless. Of the top 12 industries, those that most exceeded this percentage for assetless administrations (42.3%) were Other (business & personal) services (51.1%), Rental, hiring & real estate services (50%) and Information media & telecommunications (47.1%).

- 140 On the other hand, 8.7% of reports estimated assets of over \$250,000. Of the top 12 industries, those well above this percentage were Agriculture, forestry & fishing (20%) and Rental, hiring & real estate services (15.7%).

Note: In the 'Other industries' category, Mining (27.5%), FIS—Managed investments (21.5%), FIS—Credit provider (20%), Public administration & safety (15.4%), Education & training (15.1%) and Health care & social assistance (12.8%) all exceeded this percentage across all industries (8.7%), but made up only 3.6% of all reports.

Liabilities

- 141 More than half of reports (52%) indicated that the estimated liabilities of the failed companies were \$250,000 or less and 80.6% indicated estimated liabilities less than \$1 million.

- 142 Of the top 12 industries, those with the greatest percentage of companies with estimated liabilities of \$250,000 or less were Other (business & personal) services (63.7%), Transport, postal & warehousing (56%) and FIS—Other financial services (54.3%).

- 143 A comparison of those industries with estimated liabilities over \$10 million reveals that the proportion of reports in that category across all industries (3.6%) was exceeded by Information media & telecommunication (19.8%), FIS—Other financial services (7.9%) and Agriculture, forestry & fishing (6%).

Note: In the 'Other industries' category, Mining (22.5%), Education & training (15.1%), FIS—Credit provider (15%), FIS—Managed investments (9.2%) and Administrative & support services (5.9%) all exceeded this percentage across all industries (3.6%), but made up only 3.4% of all reports.

Deficiency

- 144 Across all industries, 54.7% of reports estimated the shortfall between estimated assets and estimated liabilities was \$250,000 or less. When comparing the deficiency estimates between the top 12 industries, the three industries with the highest percentage of estimates at \$250,000 or less were Other (business & personal) services (66%), Transport, postal & warehousing (59.3%) and FIS—Other financial services (57.3%). Only 3.1% of all reports estimated a deficiency of over \$10 million.

- 145 Of the top 12 industries, those that most exceeded this percentage were Information media & telecommunications (19.8%), FIS—Other financial services (7.9%) and Agriculture, forestry & fishing (5.3%).

Note: Six industries grouped in 'Other industries' exceeded this percentage across all industries (3.1%): Mining (20%), Education & training (15.1%), FIS—Credit provider (15%), FIS—Managed investments (6.2%), Administrative & support services (5.9%) and Health care & social assistance (3.5%). However, when combined, these industries made up only 4.5% of reports.

Table 49: Initial external administrators' reports—Amount of assets and liabilities by industry (1 July 2008–30 June 2009)

	Other (business & personal) services	Construction	Retail trade	Accommodation & food services	Manufacturing	Transport, postal & warehousing	Wholesale trade	Information media & telecommunications	Rental, hiring & real estate services	FIS—Other financial services	Agriculture, forestry & fishing	Professional, scientific & technical services	Other industries	Total	% of total
Asset categories															
Less than \$1	914	779	319	224	154	183	78	121	105	67	47	48	233	3,272	42.3%
\$1–\$10,000	374	360	188	117	85	88	46	58	31	48	23	39	122	1,579	20.4%
\$10,001–\$20,000	151	137	82	43	49	45	28	16	16	6	14	17	57	661	8.5%
\$20,001–\$30,000	57	67	42	23	23	20	16	8	4	7	7	6	24	304	3.9%
\$30,001–\$50,000	58	86	68	31	29	29	20	11	7	6	10	6	31	392	5.1%
\$50,001–\$100,000	61	83	74	32	53	29	23	20	7	11	9	14	38	454	5.9%
\$100,001–\$250,000	64	86	59	24	47	26	19	14	7	5	10	9	27	397	5.1%
\$250,001–\$5 million	101	144	70	30	59	34	30	9	27	12	26	10	52	604	7.8%
Over \$5 million	7	18	2	7	7	3	2	0	6	2	4	0	12	70	0.9%
Total for industry	1,787	1,760	904	531	506	457	262	257	210	164	150	149	596	7,733	100.0%
Liability categories															
\$1–\$250,000	1,138	949	402	250	205	256	103	114	100	89	48	71	300	4,025	52.0%
\$250,001–less than \$1 million	401	437	328	198	194	126	91	64	55	34	50	58	169	2,205	28.5%
\$1 million–less than \$5 million	188	285	116	63	76	59	44	25	43	23	32	18	79	1,051	13.6%
\$5 million–\$10 million	25	45	21	8	15	9	12	3	6	5	11	1	13	174	2.3%
Over \$10 million	35	44	37	12	16	7	12	51	6	13	9	1	35	278	3.6%
Total for industry	1,787	1,760	904	531	506	457	262	257	210	164	150	149	596	7,733	100.0%

Note: 'Other industries' includes Administrative & support services, Arts & recreation services, Education & training, Electricity, gas, water & waste services, remaining Financial & insurance services sub-categories (Credit provider, Deposit taking institutions, Insurance, Managed investments and Superannuation), Health care & social assistance, Mining and Public administration & safety.

Table 50: Initial external administrators' reports—Amount of deficiency by industry (1 July 2008–30 June 2009)

	Other (business & personal) services	Construction	Retail trade	Accommodation & food services	Manufacturing	Transport, postal & warehousing	Wholesale trade	Information media & telecommunications	Rental, hiring & real estate services	FIS—Other financial services	Agriculture, forestry & fishing	Professional, scientific & technical services	Other industries	Total	% of total
\$0–\$50,000	527	391	112	80	81	105	32	37	30	39	13	19	112	1,578	20.4%
\$50,001–\$250,000	652	592	317	186	148	166	72	79	76	55	42	60	206	2,651	34.3%
\$250,001–less than \$500,000	239	273	205	124	107	70	55	40	34	22	29	27	96	1,321	17.1%
\$500,000–less than \$1 million	164	182	115	70	77	54	43	26	29	12	20	23	67	882	11.4%
\$1 million–less than \$5 million	158	255	101	58	66	50	41	21	32	17	32	18	71	920	11.9%
\$5 million–\$10 million	18	32	18	6	17	8	11	3	5	6	6	1	12	143	1.8%
Over \$10 million	29	35	36	7	10	4	8	51	4	13	8	1	32	238	3.1%
Total for industry	1,787	1760	904	531	506	457	262	257	210	164	150	149	596	7,733	100.0%

Note: 'Other industries' includes Administrative & support services, Arts & recreation services, Education & training, Electricity, gas, water & waste services, remaining Financial & insurance services sub-categories (Credit provider, Deposit taking institutions, Insurance, Managed investments and Superannuation), Health care & social assistance, Mining and Public administration & safety.

Employee entitlements

146 In all categories of employee entitlements (i.e. wages, annual leave, pay in lieu of notice, redundancy, long service leave and superannuation), 'Not applicable' was selected in the majority of reports: see Table 51 and Table 52. 'Not applicable' means that no amount of entitlement of that type was unpaid to employee creditors as at the date of the appointment of the external administrator.

Table 51: Initial external administrators' reports—Amounts owed in unpaid employee entitlements (1 July 2008–30 June 2009)

	Unpaid wages		Unpaid annual leave		Unpaid pay in lieu of notice		Unpaid redundancy		Unpaid long service leave	
	No.	%	No.	%	No.	%	No.	%	No.	%
\$1–\$1,000	264	3.4%	192	2.5%	181	2.4%	139	1.8%	134	1.7%
\$1,001–\$10,000	902	11.7%	933	12.1%	376	4.9%	160	2.1%	165	2.1%
\$10,001–\$50,000	401	5.2%	557	7.2%	283	3.7%	167	2.2%	198	2.6%
\$50,001–\$150,000	121	1.6%	164	2.1%	68	0.9%	84	1.1%	58	0.8%
\$150,001–\$250,000	30	0.4%	28	0.4%	13	0.2%	35	0.5%	15	0.2%
\$250,001–\$500,000	21	0.3%	16	0.2%	14	0.2%	15	0.2%	8	0.1%
\$500,001–less than \$1.5 million	5	0.1%	11	0.1%	6	0.1%	9	0.1%	6	0.1%
\$1.5 million–\$5 million	0	0.0%	1	0.0%	3	0.0%	7	0.1%	0	0.0%
Over \$5 million	0	0.0%	4	0.1%	6	0.1%	8	0.1%	4	0.1%
Not applicable	5,946	77.3%	5,784	75.2%	6,740	87.6%	7,066	91.9%	7,102	92.4%
Total	7,690	100.0%	7,690	100.0%	7,690	100.0%	7,690	100.0%	7,690	100.0%

Note: 43 reports identified as being internally inconsistent were excluded from this table.

Unpaid wages

147 77.3% of reports showed unpaid wages as not applicable. In 15.2% of reports, it was estimated that employees were owed \$1 to \$10,000 in unpaid wages. Categories over \$10,001 made up 7.5% of reports.

Unpaid annual leave

- 148 In all, 75.2% of reports showed unpaid annual leave as not applicable. In 14.6% of cases employees were owed \$1 to \$10,000, and 21.9% of companies owed \$50,000 or less. All other categories make up 2.9% of reports.

Unpaid pay in lieu of notice

- 149 Again, unpaid pay in lieu of notice was not applicable in most cases (87.6%). 1.4% of reports showed entitlements for unpaid pay in lieu of notice over \$50,000.

Unpaid redundancy

- 150 Unpaid redundancy was not applicable in 91.9% of reports. In all, 3.9% of reports showed employees were owed \$1 to \$10,000 in redundancy payments.
- 151 Only 0.1% of reports showed unpaid redundancy of over \$5 million.

Unpaid long service leave

- 152 3.9% of reports showed employees were owed \$1 to \$10,000 in unpaid long service leave, and unpaid long service leave of more than \$5 million was estimated in only 0.1% of reports.
- 153 The majority of reports (92.4%) indicated a long service leave debt was not applicable.

Unpaid superannuation

- 154 Due to the different value categories of superannuation entitlements, these figures are shown separately in Table 52. The results show a similar pattern to other employee entitlements with a large number (64.7%) of reports showing unpaid superannuation as not applicable.

Table 52: Initial external administrators' reports—Amounts owed in unpaid superannuation entitlements (1 July 2008–30 June 2009)

	No.	%
\$1–\$100,000	2,495	32.3%
\$100,001–\$250,000	177	2.3%
\$250,001–\$1 million	46	0.6%
Over \$1 million	11	0.1%
Not applicable	5,004	64.7%
Total	7,733	100.0%

Note: No reports were identified as being internally inconsistent.

Secured creditors

155 Table 53 and Figure 6 show the amounts owed to secured creditors by industry. Most reports for 2008–2009 (70.1%) indicated that nothing was owed to secured creditors.

156 A significant proportion (21%) of 2008–2009 reports showed secured creditors were owed between \$1 and less than \$1 million.

157 Of the top 12 industries, those with the greatest percentage of reports showing secured creditors were owed less than \$1 million (91.2%) were Professional, scientific & technical services (98%), Other (business & personal) services (95%) and Transport, postal & warehousing (94.7%).

Note: Other industries exceeded this average (91.2%) mainly due to 100% of reports for four industries where secured creditors were owed less than \$1 million – FIS – Insurance, Public administration & safety, FIS – Superannuation and FIS – Deposit taking institutions.

158 2.9% of reports showed more than \$10 million was owed to secured creditors. Information media & telecommunications significantly exceeded this percentage (20.2%).

Note: Of those listed in 'Other industries', the three industries which most exceeded this percentage of reports across all industries with amounts owed to secured creditors over \$10 million (2.9%) were Education & training (15.1% or 8 reports) and equal second, Mining (10% or 4 reports) and FIS—Credit provider (10% or 2 reports).

Unpaid taxes and charges

159 Most reports (89.3%) indicated that the amount of unpaid taxes and charges was \$250,000 or less.

160 Of the top 12 industries, Retail trade most exceeded this percentage with 93.3% of reports indicating \$250,000 or less was owed in unpaid taxes and charges.

161 The average percentage of unpaid taxes and charges over \$1 million across all industries was 2.1% in 2008–2009. Of the top 12 industries, the industries which most exceeded this were Agriculture, forestry & fishing (4.7%), FIS—Other services (3.7%) and Rental, hiring & real estate services (3.3%). See Table 54.

Note: In the 'Other industries' category, the three industries that most exceeded this percentage across all industries (2.1%) of unpaid taxes and charges of over \$1 million were Public administration & safety (7.7%), and equal second, Health care & social assistance and Administrative & support services (3.5%) These industries represented 2.4% of all reports.

Table 53: Initial external administrators' reports—Amount owed to secured creditors by industry (1 July 2008–30 June 2009)

	Other (business & personal) services	Construction	Retail trade	Accommodation & food services	Manufacturing	Transport, postal & warehousing	Wholesale trade	Information media & telecommunications	Rental, hiring & real estate services	FIS—Other financial services	Agriculture, forestry & fishing	Professional, scientific & technical services	Other industries	Total	% of total
\$0	1,431	1,281	581	371	279	295	165	157	126	115	74	111	438	5,424	70.1%
\$1–less than \$500,000	226	278	209	104	140	118	51	36	42	27	34	30	92	1,387	17.9%
\$500,000–less than \$1 million	40	43	32	20	21	20	15	3	7	5	11	5	18	240	3.1%
\$1 million–less than \$5 million	62	104	47	22	32	14	18	7	26	7	22	3	23	387	5.0%
\$5 million–\$10 million	10	23	3	3	8	3	7	2	5	0	2	0	6	72	0.9%
Over \$10 million	18	31	32	11	26	7	6	52	4	10	7	0	19	223	2.9%
Total for industry	1,787	1,760	904	531	506	457	262	257	210	164	150	149	596	7,733	100.0%

Note: 'Other industries' includes Administrative & support services, Arts & recreation services, Education & training, Electricity, gas, water & waste services, all Financial & insurance services sub-categories (Credit provider, Deposit taking institutions, Insurance, Managed investments and Superannuation), Health care & social assistance, Mining, and Public administration & safety.

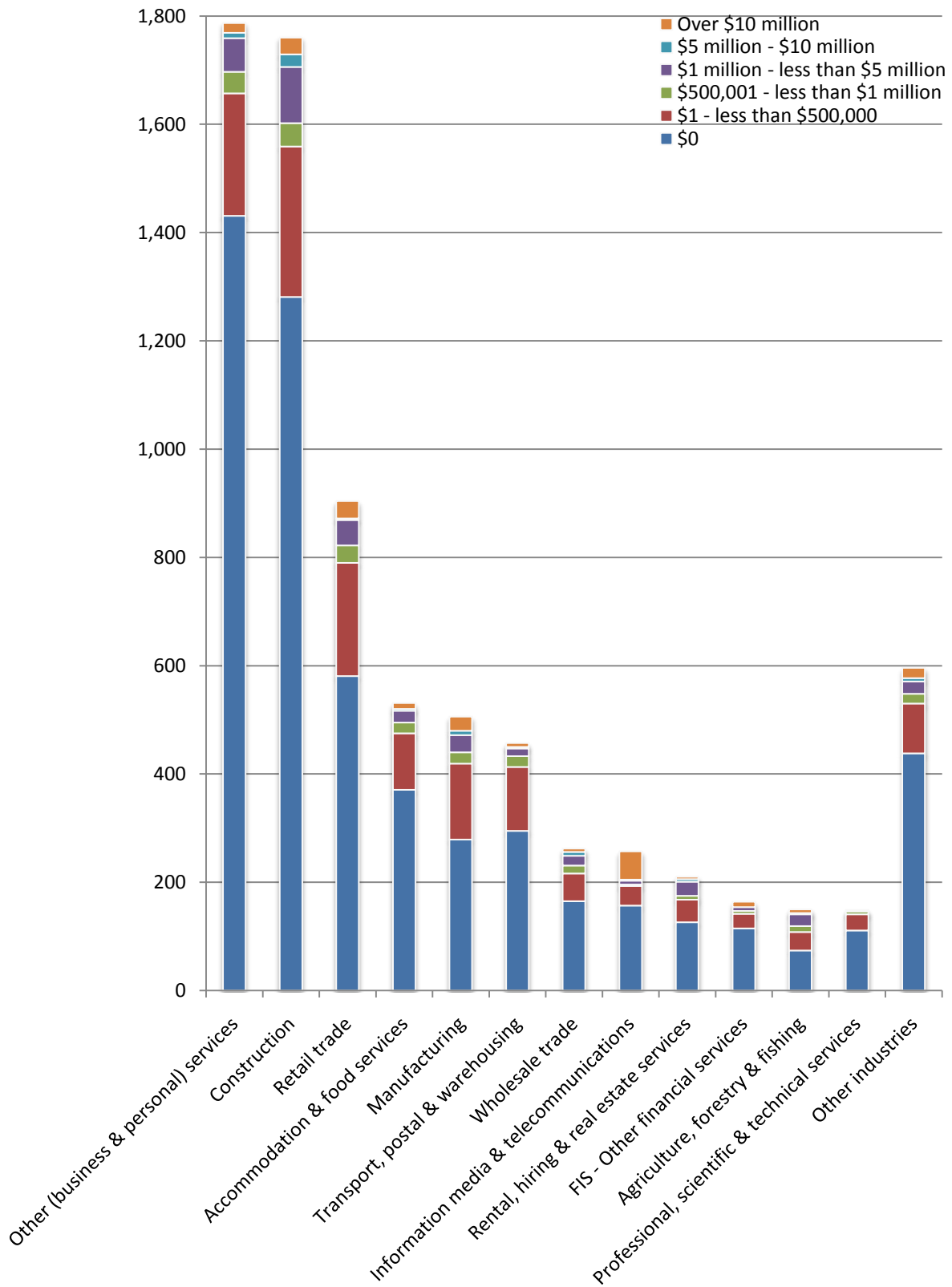
Figure 6: Initial external administrators' reports—Amount owed to secured creditors by industry (1 July 2008–30 June 2009)

Table 54: Initial external administrators' reports—Amount owed in unpaid taxes and charges by industry (1 July 2008–30 June 2009)

	Other (business & personal) services	Construction	Retail trade	Accommodation & food services	Manufacturing	Transport, postal & warehousing	Wholesale trade	Information media & telecommunications	Rental, hiring & real estate services	FIS—Other financial services	Agriculture, forestry & fishing	Professional, scientific & technical services	Other industries	Total	% of total
\$0	442	419	179	83	98	70	60	98	33	61	33	28	150	1,754	22.7%
\$1–\$250,000	1,150	1,122	664	393	350	332	180	137	154	84	99	100	385	5,150	66.6%
\$250,001–\$1 million	162	179	44	45	51	44	19	19	16	13	11	17	48	668	8.6%
Over \$1 million	33	40	17	10	7	11	3	3	7	6	7	4	13	161	2.1%
Total for industry	1,787	1,760	904	531	506	457	262	257	210	164	150	149	596	7,733	100.0%

Note: 'Other industries' includes Administrative & support services, Arts & recreation services, Education & training, Electricity, gas, water & waste services, all Financial & insurance services sub-categories (Credit provider, Deposit taking institutions, Insurance, Managed investments and Superannuation), Health care & social assistance, Mining, and Public administration & safety.

Unsecured creditors

Number of unsecured creditors

- 162 Most reports for 2008–2009 (86.5%) indicated the company had 50 or less unsecured creditors. Of the top 12 industries, those which had the greatest percentages of 50 or less unsecured creditors were Professional, scientific & technical services (91.3%), Other (business & personal) services (91.2%) and Rental, hiring & real estate services (90.5%). See Table 55.

Amount owed to unsecured creditors

- 163 The majority (66.3%) of companies owed less than \$250,000 to unsecured creditors. Of the top 12 industries, the three which had the greatest percentage of companies in this category were Other (business & personal) services (77.1%), Rental, hiring & real estate services (71.9%) and Transport, postal & warehousing (69.1%).
- 164 The two industries with the highest number of reports where companies owed more than \$10 million to unsecured creditors were Construction (17 reports) and Other (business & personal) services (15 reports).

Note: In the 'Other industries' category, three industries with a highest number of reports where companies owed more than \$10 million to unsecured creditors were Mining with 6 reports, and with 4 reports each, Administrative & support services and FIS—Managed investments.

Amounts owed to related parties

- 165 Of the total amount owed to unsecured creditors, 18.5% of lodgements reported that more than 50% of the debt was owed to related parties. Of the top 12 industries, those with the greatest percentage of reports showing more than 50% owed to related parties were Accommodation & food services (25.8%), Manufacturing (25.7%) and Retail trade (25%).

Note: Of those listed in 'Other industries', seven exceeded this percentage across all industries (18.5%): Mining (42.5%), Education & training (30.2%), FIS—Managed investments (27.7%), Administrative & support services (25.9%), Arts & recreation services (21.6%) and FIS—Credit provider (20%).

Cents in the dollar dividend

- 166 In 2008–2009, the dividend estimated to be payable to unsecured creditors was less than 11 cents in the dollar for most reports (97.4%). Of the top 12 industries, the top three with an estimated return of less than 11 cents in the dollar were Accommodation & food services (98.7%), and equal second, Other (business & personal) services and FIS—Other financial services (98.2% each). 'Other industries' includes four industries where 100%

estimated less than 11 cents in the dollar: FIS—Insurance (13 reports), Public administration & safety (13 reports), FIS—Superannuation (3 reports) and FIS—Deposit taking institution (1 report).

- 167 Of the top 12 industries, the two industries with the greatest percentage of estimated returns of more than 50 cents in the dollar to unsecured creditors were Agriculture, forestry & fishing (3.3%) and Rental, hiring & real estate services (2.9%), compared to the proportion across all industries of 0.7%. See Table 56.

Table 55: Initial external administrators' reports—Number of unsecured creditors, amount owed and reports where > 50% is owed to related parties by industry (1 July 2008–30 June 2009)

	Other (business & personal) services	Construction	Retail trade	Accommodation & food services	Manufacturing	Transport, postal & warehousing	Wholesale trade	Information media & telecommunications	Rental, hiring & real estate services	FIS—Other financial services	Agriculture, forestry & fishing	Professional, scientific & technical services	Other industries	Total	% of total
Number of unsecured creditors															
Less than 25	1,529	1,367	574	382	301	356	163	200	173	136	110	123	463	5,877	76.0%
25–50	100	139	163	80	101	35	48	24	17	9	23	13	62	814	10.5%
51–200	69	175	127	50	87	42	40	10	8	6	13	10	47	684	8.8%
More than 200	6	17	22	1	11	6	5	3	1	3	0	0	5	80	1.0%
Unknown	83	62	18	18	6	18	6	20	11	10	4	3	19	278	3.6%
Total for industry	1,787	1,760	904	531	506	457	262	257	210	164	150	149	596	7,733	100.0%
Amount owed to unsecured creditors															
Less than \$250,000	1,377	1,154	527	343	273	316	137	175	151	108	79	102	385	5,127	66.3%
\$250,000–\$500,000	166	222	153	94	102	55	45	32	22	17	18	22	82	1,030	13.3%
\$500,001–less than \$1 million	115	163	103	47	60	35	41	18	19	8	20	13	51	693	9.0%
\$1 million–less than \$5 million	104	181	90	40	56	41	29	18	15	17	27	12	51	681	8.8%
\$5 million–\$10 million	10	23	17	5	8	7	5	3	1	5	5	0	9	98	1.3%
Over \$10 million	15	17	14	2	7	3	5	11	2	9	1	0	18	104	1.3%
Total for industry	1,787	1,760	904	531	506	457	262	257	210	164	150	149	596	7,733	100.0%
Amounts owed to related parties															
> 50% owed to related parties	291	229	226	137	130	55	56	44	33	38	28	32	129	1,428	18.5%
% of reports lodged for industry	16.3%	13.0%	25.0%	25.8%	25.7%	12.0%	21.4%	17.1%	15.7%	23.2%	18.7%	21.5%	21.6%		

Note: 'Other industries' includes Administrative & support services, Arts & recreation services, Education & training, Electricity, gas, water & waste services, remaining Financial & insurance services sub-categories (Credit provider, Deposit taking institutions, Insurance, Managed investments and Superannuation), Health care & social assistance, Mining and Public administration & safety.

Table 56: Initial external administrators' reports—Amount payable to unsecured creditors—Cents in the dollar dividend by industry (1 July 2008–30 June 2009)

	Other (business & personal) services	Construction	Retail trade	Accommodation & food services	Manufacturing	Transport, postal & warehousing	Wholesale trade	Information media & telecommunications	Rental, hiring & real estate services	FIS – Other financial services	Agriculture, forestry & fishing	Professional, scientific & technical services	Other industries	Total	% of total
0 cents	1,691	1,623	832	501	461	420	234	238	188	154	130	135	541	7,148	92.4%
Greater than 0 but less than 11 cents	63	90	54	23	27	25	21	13	9	7	11	6	32	381	4.9%
11–20 cents	10	18	9		6	4	3	3	4	1	3	3	6	70	0.9%
21–50 cents	11	20	4	4	9	7	1	3	3	00	1	3	13	79	1.0%
51–100 cents	12	9	5	3	3	1	3	0	6	2	5	2	4	55	0.7%
Total for industry	1,787	1,760	904	531	506	457	262	257	210	164	150	149	596	7,733	100.0%

Note: 'Other industries' includes Administrative & support services, Arts & recreation services, Education & training, Electricity, gas, water & waste services, remaining Financial & insurance services sub-categories (Credit provider, Deposit taking institutions, Insurance, Managed investments and Superannuation), Health care & social assistance, Mining and Public administration & safety.

Completion of external administration

168 In the opinion of external administrators, the majority of external administrations (72.3%) were expected to be completed within six months of the date of lodging their report. This was in addition to the time already taken to lodge the report. Table 32 shows that 22.3% of reports were lodged more than 12 months after the external administrator's appointment.

Table 57: Initial external administrators' reports—Expected time to complete the external administration (1 July 2008–30 June 2009)

	No.	%
0–less than 3 months	2,828	36.6%
3–less than 6 months	2,764	35.7%
6 months–1 year	1,680	21.7%
Over 1 year	461	6.0%
Total	7,733	100.0%

Proposed action

Public examinations

169 In 184 reports (2.4%), the external administrator noted that they were intending to hold public examinations to question a company's directors about the affairs of the company.

Recovery proceedings

170 Recovery proceedings for property or compensation for the benefit of creditors under Pt 5.7B of the Corporations Act either had been initiated or their initiation had been considered in 1,298 (16.8%) of all reports.

Company officers

171 External administrators advised in 443 reports (5.7%) that, in their opinion, there were shadow directors.

External administrator's remuneration

- 172 Excluding the \$0 and not applicable results, the most common category of external administrator's estimated collectible fees was liquidator fees, with 5,083 reports. Of these, 4,709 reports estimated collectible liquidator fees between \$1 and \$50,000.
- 173 Of the reports that completed the voluntary administration fees question, 1,066 estimated the collectible fees to be between \$1 and \$50,000.

Table 58: Initial external administrators' reports—External administrator's remuneration (1 July 2008–30 June 2009)

	Voluntary administration fees		Deed of company arrangement fees		Liquidator fees		Receiver/ controller fees	
	No.	%	No.	%	No.	%	No.	%
\$0	992	12.8%	1,035	13.4%	2,446	31.6%	1,061	13.7%
\$1–\$50,000	1,066	13.8%	119	1.5%	4,709	60.9%	33	0.4%
\$50,001–\$100,000	156	2.0%	18	0.2%	247	3.2%	30	0.4%
\$100,001–\$250,000	57	0.7%	13	0.2%	96	1.2%	18	0.2%
Over \$250,000	31	0.4%	13	0.2%	31	0.4%	34	0.4%
Not applicable	5,431	70.2%	6,535	84.5%	204	2.6%	6,557	84.8%
Total	7,733	100.0%	7,733	100.0%	7,733	100.0%	7,733	100.0%

Note: More than one fee type may be entered if the appointee has been, is or expects to be appointed to more than one type of role in relation to the company.

F Initial external administrators' reports 2007–2008

174 For the year ended 30 June 2008, initial external administrators' reports made up 89.9% (or 6,933 reports) of the total number of external administrator statutory reports lodged: see Table 2 and Table 3 in Section C. This compares to 90.8% (or 6,865 reports) in 2006–2007.

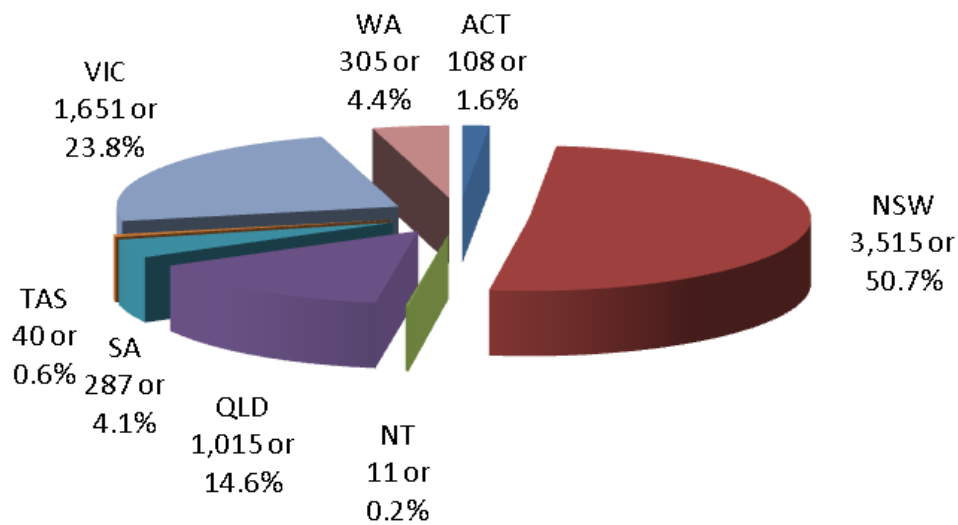
Key points

Initial external administrators' reports disclosed the following material movements in 2007–2008 from the previous financial year:

- Companies registered in New South Wales increased from 46.6% to 50.7% of reports.
- Companies with less than 20 employees decreased from 82.3% to 78.1% of reports. The number of reports where the size of the company was unknown increased from 12.6% to 16.8%.
- Companies with unpaid superannuation of \$1–\$100,000 decreased from 32.5% to 29.2% of reports.
- Unpaid taxes and charges of \$250,001–\$1 million decreased from 19.8% to 9.2% of reports.
- The \$0 remuneration category decreased for voluntary administrators (28.7% to 19.6%), deed administrators (37.8% to 23.9%) and receivers/controllers (38.6% to 24.1%).
- The \$0 remuneration category for liquidators increased from 26.9% to 30.7% of reports. In addition, the \$1–\$50,000 remuneration category for voluntary administrators decreased from 24% to 20.4% of reports and liquidators decreased from 65.3% to 61.8% of reports.

Lodgements by region

175 More than half the reports in 2007–2008 related to New South Wales registered companies (3,515 reports or 50.7%), followed by Victoria (1,651 reports or 23.8%) and Queensland (1,015 reports or 14.6%). The five remaining states and territories made up 10.8% of reports.

Figure 7: Initial external administrators' reports by region (1 July 2007–30 June 2008)

Note: One company with an international registered address is not included in regional statistics.

Lodgement period

- 176 In the year ended 30 June 2008, only 15.1% of reports were lodged within two months of the external administrator's appointment, with 28.9% lodged more than 12 months after appointment: see Table 59.
- 177 The result may be distorted by instances where the first electronically lodged report was not the first report lodged.

Table 59: Initial external administrators' reports by lodgement period (1 July 2007–30 June 2008)

	No.	%
Less than 2 months	1,045	15.1%
Between 2 and 5 months	2,167	31.3%
Between 6 and 12 months	1,714	24.7%
More than 12 months	2,007	28.9%
Total	6,933	100.0%

Section lodged under

- 178 Most reports in 2007–2008 (94%) were lodged by liquidators under s533 of the Corporations Act: see Table 60.

Table 60: Initial external administrators' reports by section of the Corporations Act (1 July 2007–30 June 2008)

	No.	%
Section 422 (reports by receiver)	51	0.7%
Section 438D (reports by administrator)	363	5.2%
Section 533 (reports by liquidator)	6,514	94.0%
Statistical purposes	5	0.1%
Total	6,933	100.0%

Size of company

- 179 The number of employees or the number of full-time equivalent employees is used as a measure of the size of the company. In 2007–2008, 78.1% of reports related to companies with less than 20 employees compared to 82.3% in 2006–2007: see Table 61.

Table 61: Initial external administrators' reports—Size of company as measured by number of FTEs (1 July 2007–30 June 2008)

	No.	%
Less than 5 FTE	4,287	61.8%
Between 5 and 19 FTE	1,129	16.3%
Between 20 and 199 FTE	342	4.9%
200 or more FTE	7	0.1%
Not known	1,168	16.8%
Total	6,933	100.0%

Note: FTE = Full-time equivalent employees.

Industry

- 180 As for the previous financial year, in 2007–2008, the industries with the highest number of reports lodged were Construction (1,517 reports or 21.9%), Services to business (873 reports or 12.6%) and Retail trade (860 reports or 12.4%): see Table 62.
- 181 The top 12 industries are the same as for 2006–2007, but with some changes in order of ranking.

Table 62: Initial external administrators' reports by industry type (1 July 2007–30 June 2008)

	No.	%		No.	%
Construction	1,517	21.9%	Agriculture	127	1.8%
Services to business	873	12.6%	Health & community services	90	1.3%
Retail trade	860	12.4%	Cultural & recreational services	86	1.2%
Property & business services	643	9.3%	Managed investments	50	0.7%
Accommodation, cafes & restaurants	507	7.3%	Mining	33	0.5%
Personal & other services	498	7.2%	Education	28	0.4%
Transport & storage	438	6.3%	Electricity, gas & water supply	27	0.4%
Manufacturing	434	6.3%	Credit provider	15	0.2%
Wholesale trade	260	3.8%	Insurance	12	0.2%
Communication & services	234	3.4%	Superannuation	3	0.0%
Other financial services	198	2.9%	Total	6,933	100.0%

Note: No reports were received for Deposit taking institutions and Government administration & defence.

Nominated causes of failure

- 182 There is commonly more than one reason for a company's failure. External administrators nominated an average of 2.31 causes of failure per report in 2007–2008.
- 183 The top three nominated causes of failure for companies (see Table 63 and Table 64) were:
- poor strategic management of business (2,937 or 42.4% of reports);
 - inadequate cash flow or high cash use (2,871 or 41.4% of reports); and
 - poor financial control including lack of records (2,380 or 34.3% of reports).
- 184 Of the top 12 industries, the three industries which most exceeded the percentage of reports for these three causes of failure were:
- poor strategic management of business: Manufacturing (46.3% of reports), and equal second, Property & business services and Transport & storage (45.7% of reports each);
 - inadequate cash flow or high cash use: Transport & storage (46.6% of reports), Communication & services (45.7% of reports) and Accommodation, cafes & restaurants (45.4% of reports);
 - poor financial control including lack of records: equal first were Property & business services and Communication & services (39.3% of reports), and Transport & storage (38.4% of reports).
- 185 Six states and territories shared the same top two causes of failure but not in the same order: Australian Capital Territory, New South Wales, Queensland, Tasmania, Victoria and Western Australia. See Table 62.

Table 63: Initial external administrators' reports—Nominated causes of failure by industry (1 July 2007–30 June 2008)

	Construction	Services to business	Retail trade	Property & business services	Accommodation, cafes & restaurants	Personal & other services	Transport & storage	Manufacturing	Wholesale trade	Communication & services	Other financial services	Agriculture	Other industries	Total
Under capitalisation	357	184	225	149	141	103	101	113	62	59	44	29	73	1,640
Poor financial control including lack of records	581	264	264	253	190	156	168	116	76	92	70	41	109	2,380
Poor management of accounts receivable	298	130	81	63	20	45	92	65	40	41	12	8	41	936
Poor strategic management of business	609	370	350	294	229	214	200	201	100	99	70	49	152	2,937
Inadequate cash flow or high cash use	609	346	380	265	230	182	204	191	111	107	77	38	131	2,871
Poor economic conditions	139	47	95	50	53	21	57	61	27	15	22	23	19	629
Natural disaster	5	0	13	0	8	2	4	4	2	0	0	8	3	49
Fraud	13	5	23	21	7	7	14	3	7	7	13	0	16	136
DOCA failed	11	3	9	6	3	0	4	6	4	0	2	2	8	58
Dispute among directors	68	37	33	38	29	19	18	19	17	10	13	6	20	327
Trading losses	442	323	399	158	235	150	153	164	106	75	37	33	98	2,373
Industry restructuring	13	13	27	6	2	6	11	18	15	9	1	5	12	138
Other	323	181	188	160	78	124	74	105	62	46	72	29	87	1,529
Nominated causes of failure by industry	3,468	1,903	2,087	1,463	1,225	1,029	1,100	1,066	629	560	433	271	769	16,003

Note: 'Other industries' includes Credit provider, Cultural & recreational services, Education, Electricity, gas & water supply, Health & community services, Insurance, Managed investments, Mining and Superannuation.

Table 64: Initial external administrators' reports—Nominated causes of failure by region (1 July 2007–30 June 2008)

	ACT	NSW	NT	QLD	SA	TAS	VIC	WA	Total
Under capitalisation	38	782	6	240	97	11	377	89	1,640
Poor financial control including lack of records	45	1,379	5	319	84	11	433	103	2,379
Poor management of accounts receivable	20	458	1	160	54	9	201	33	936
Poor strategic management of business	52	1,398	2	493	141	20	695	135	2,936
Inadequate cash flow or high cash use	50	1,440	4	464	134	14	638	126	2,870
Poor economic conditions	8	382	1	79	22	2	117	18	629
Natural disaster	3	20	0	7	2	0	15	2	49
Fraud	4	54	0	32	8	1	27	10	136
DOCA failed	0	22	0	15	4	0	8	9	58
Dispute among directors	5	128	2	49	16	3	101	23	327
Trading losses	28	1,173	7	382	149	11	504	119	2,373
Industry restructuring	2	49	0	13	9	3	49	13	138
Other	17	673	3	253	66	9	423	85	1,529
Total	272	7,958	31	2,506	786	94	3,588	765	16,000

Note: Causes of failure for companies with international registered addresses are not included in regional statistics.

Liabilities and assets

- 186 External administrators provide estimates of the assets, liabilities and overall financial deficiency of companies they are reporting on. Table 65 shows the assets and liabilities categories and Table 66 shows the deficiency for the top 12 industries by reports lodged (as noted in Table 62).

Assets

- 187 Most reports (63.8%) showed that the companies had estimated assets of \$10,000 or less.
- 188 Of the top 12 industries, those with the greatest percentage of reports estimating assets of \$10,000 or less were Services to business (73.5%), Personal & other services (72.9%) and equal third, Communication & services and Other financial services (66.7%).
- 189 In 42.2% (2,925) of reports, the external administrator estimated the administration was assetless. Of the top 12 industries, those that most exceeded this percentage for assetless administrations (42.2%) were Services to business (50.3%) Personal and other services (46.6%) and Communication & services (46.2%).
- 190 On the other hand, 7.4% of reports estimated assets of over \$250,000. Of the top 12 industries, those well above this percentage were Agriculture (14.2%), Other financial services (14.1%) and Wholesale trade (13.8%).

Note: In the 'Other industries' category, Mining (18.2%), Managed investments (18%), Health & community services (11.1%), Insurance (8.3%) and Cultural & recreational services (8.1%) all exceeded this percentage across all industries (7.4%), but made up only 3.9% of all reports.

Liabilities

- 191 More than half of reports (54.6%) indicated that the estimated liabilities of the failed companies were \$250,000 or less and 84% indicated estimated liabilities less than \$1 million.
- 192 Of the top 12 industries, those with the greatest percentage of companies with estimated liabilities of \$250,000 or less were Personal & other services (70.9%), Services to business (65.9%) and Transport & storage (58.7%).
- 193 A comparison of those industries with estimated liabilities over \$10 million reveals that the proportion of reports in that category across all industries (1.4%) was exceeded by Other financial services (4%), Manufacturing (2.5%) and Accommodation, cafes & restaurants (2%).

Note: In the 'Other industries' category, Mining (15.2%), Managed investments (8%), Health & community services (2.2%) all exceeded this percentage across all industries (1.4%), but made up only 2.5% of all reports.

Deficiency

- 194 Across all industries, 57.6% of reports estimated the shortfall between estimated assets and estimated liabilities was \$250,000 or less. When comparing the deficiency estimates between the top 12 industries, the three industries with the highest percentage of estimates at \$250,000 or less were Personal & other services (72.9%), Services to business (68.7%) and Transport & storage (61.4%).
- 195 Only 1.1% of all reports estimated a deficiency of over \$10 million. Of the top 12 industries, those that most exceeded this percentage were Other financial services (4%), Manufacturing (2.3%) and Wholesale trade (1.9%).

Note: Five industries grouped in 'Other industries' exceeded this percentage across all industries (1.1%): Mining (15.2%), Credit provider (6.7%), Managed investments (6%), Health & community services (2.2%) and Cultural & recreational services (1.2%). However, when combined, these industries made up only 4% of reports.

Table 65: Initial external administrators' reports—Amount of assets and liabilities by industry (1 July 2007–30 June 2008)

	Construction	Services to business	Retail trade	Property & business services	Accommodation, cafes & restaurants	Personal & other services	Transport & storage	Manufacturing	Wholesale trade	Communication & services	Other financial services	Agriculture	Other industries	Total	% of total
Asset categories															
Less than \$1	675	439	312	294	213	232	175	132	87	108	81	47	130	2,925	42.2%
\$1–\$10,000	328	203	220	126	94	131	84	74	49	48	51	27	66	1,501	21.7%
\$10,001–\$20,000	133	79	81	46	68	40	54	47	16	13	13	8	41	639	9.2%
\$20,001–\$30,000	55	29	48	18	28	28	14	20	11	5	4	6	13	279	4.0%
\$30,001–\$50,000	62	25	61	17	30	21	30	31	14	10	4	8	16	329	4.7%
\$50,001–\$100,000	78	30	57	29	31	14	25	36	22	9	10	3	21	365	5.3%
\$100,001–\$250,000	81	33	41	30	18	19	25	51	25	20	7	10	19	379	5.5%
\$250,001–\$5 million	96	33	40	73	24	13	31	42	34	20	23	18	33	480	6.9%
Over \$5 million	9	2	0	10	1	0	0	1	2	1	5	0	5	36	0.5%
Total for industry	1,517	873	860	643	507	498	438	434	260	234	198	127	344	6,933	100.0%
Liability categories															
\$1–\$250,000	864	575	439	318	270	353	257	181	109	112	96	53	159	3,786	54.6%
\$250,001–less than \$1 million	410	215	308	189	183	111	130	156	75	64	58	45	97	2,041	29.4%
\$1 million–less than \$5 million	185	76	92	105	42	28	42	72	64	44	26	24	66	866	12.5%
\$5 million–\$10 million	40	6	9	22	2	4	5	14	7	10	10	3	10	142	2.0%
Over \$10 million	18	1	12	9	10	2	4	11	5	4	8	2	12	98	1.4%
Total for industry	1,517	873	860	643	507	498	438	434	260	234	198	127	344	6,933	100.0%

Note: 'Other industries' includes Credit provider, Cultural & recreational services, Education, Electricity, gas & water supply, Health & community services, Insurance, Managed investments, Mining and Superannuation.

Table 66: Initial external administrators' reports—Amount of deficiency by industry (1 July 2007–30 June 2008)

	Construction	Services to business	Retail trade	Property & business services	Accommodation, cafes & restaurants	Personal & other services	Transport & storage	Manufacturing	Wholesale trade	Communication & services	Other financial services	Agriculture	Other industries	Total	% of total
\$0–\$50,000	386	222	122	121	81	141	99	51	30	47	51	30	64	1,445	20.8%
\$50,001–\$250,000	516	378	343	228	204	222	170	152	83	67	53	28	107	2,551	36.8%
\$250,001–less than \$500,000	247	135	182	110	107	72	87	73	38	42	35	20	56	1,204	17.4%
\$500,000–less than \$1 million	145	63	108	78	70	31	38	71	40	25	19	22	38	748	10.8%
\$1 million–less than \$5 million	178	70	84	89	41	27	37	64	61	38	24	21	58	792	11.4%
\$5 million–\$10 million	32	5	10	13	1	4	4	13	3	12	8	4	9	118	1.7%
Over \$10 million	13	0	11	4	3	1	3	10	5	3	8	2	12	75	1.1%
Total for industry	1,517	873	860	643	507	498	438	434	260	234	198	127	344	6,933	100.0%

Note: 'Other industries' includes Credit provider, Cultural & recreational services, Education, Electricity, gas & water supply, Health & community services, Insurance, Managed investments, Mining and Superannuation.

Employee entitlements

196 In all categories of employee entitlements (i.e. wages, annual leave, pay in lieu of notice, redundancy, long service leave and superannuation), 'Not applicable' was selected in the majority of reports: see Table 67 and Table 68. 'Not applicable' means that no amount of entitlement of that type was unpaid to employee creditors as at the date of the appointment of the external administrator.

Table 67: Initial external administrators' reports—Amounts owed in unpaid employee entitlements (1 July 2007–30 June 2008)

	Unpaid wages		Unpaid annual leave		Unpaid pay in lieu of notice		Unpaid redundancy		Unpaid long service leave	
	No.	%	No.	%	No.	%	No.	%	No.	%
\$1–\$1,000	292	4.2%	217	3.1%	216	3.1%	186	2.7%	183	2.7%
\$1,001–\$10,000	825	12.0%	846	12.3%	324	4.7%	135	2.0%	140	2.0%
\$10,001–\$50,000	347	5.0%	448	6.5%	204	3.0%	159	2.3%	166	2.4%
\$50,001–\$150,000	90	1.3%	107	1.6%	51	0.7%	75	1.1%	41	0.6%
\$150,001–\$250,000	25	0.4%	23	0.3%	7	0.1%	13	0.2%	3	0.0%
\$250,001–\$500,000	16	0.2%	12	0.2%	3	0.0%	5	0.1%	3	0.0%
\$500,001–less than \$1.5 million	6	0.1%	4	0.1%	3	0.0%	7	0.1%	0	0.0%
\$1.5 million–\$5 million	0	0.0%	0	0.0%	2	0.0%	1	0.0%	0	0.0%
Over \$5 million	5	0.1%	4	0.1%	9	0.1%	5	0.1%	4	0.1%
Not applicable	5,291	76.7%	5,236	75.9%	6,078	88.1%	6,311	91.5%	6,357	92.2%
Total	6,897	100.0%	6,897	100.0%	6,897	100.0%	6,897	100.0%	6,897	100.0%

Note: 36 reports identified as being internally inconsistent were excluded from this table.

Unpaid wages

197 76.7% of reports showed unpaid wages as not applicable. In 16.2% of reports, it was estimated that employees were owed \$1 to \$10,000 in unpaid wages. Categories from \$10,001 to over \$5 million made up 7.1% of reports.

Unpaid annual leave

198 In all, 75.9% of reports showed unpaid annual leave as not applicable. In 15.4% of cases, employees were owed \$1 to \$10,000, and 21.9% of companies owed \$50,000 or less. All other categories made up 2.2% of reports.

Unpaid pay in lieu of notice

199 Again, unpaid pay in lieu of notice was not applicable in most cases (88.1%). 1.1% of reports showed entitlements for unpaid pay in lieu of notice over \$50,000.

Unpaid redundancy

200 Unpaid redundancy was not applicable in 91.5% of reports. In all, 4.7% of reports showed employees were owed \$1 to \$10,000 in redundancy payments.

201 Only 0.1% of reports showed unpaid redundancy of over \$5 million.

Unpaid long service leave

202 4.7% of reports showed employees were owed \$1 to \$10,000 in unpaid long service leave, and unpaid long service leave of more than \$5 million was estimated in only 0.1% of reports.

203 The majority of reports (92.2%) indicated a long service leave debt was not applicable.

Unpaid superannuation

204 Due to the different value categories of superannuation entitlements, these figures are shown separately in Table 68. The results show a similar pattern to other employee entitlements with a large number (68%) of reports showing unpaid superannuation as not applicable.

**Table 68: Initial external administrators' reports—
Amounts owed in unpaid superannuation entitlements
(1 July 2007–30 June 2008)**

	No.	%
\$1–\$100,000	2,021	29.2%
\$100,001–\$250,000	144	2.1%
\$250,001–\$1 million	32	0.5%
Over \$1 million	24	0.3%
Not applicable	4,711	68.0%
Total	6,932	100.0%

Note: One report identified as being internally inconsistent was excluded from this table.

Secured creditors

205 Table 69 shows the amounts owed to secured creditors for the six industries with the highest number of reports, with the remaining 29.4% grouped under 'Other industries'. Most reports for 2007–2008 (72.8%) indicated that nothing was owed to secured creditors.

206 A significant proportion (21.8%) of 2007–2008 reports showed secured creditors were owed between \$1 and less than \$1 million.

207 0.8% of reports showed more than \$10 million was owed to secured creditors.

Note: Of those listed in 'Other industries', the three industries which most exceeded this percentage of reports across all industries with amounts owed to secured creditors over \$10 million (0.8%) were Mining (9.1% or 3 reports), Other financial services (3% or 6 reports) and Health & community services (2.2% or 2 reports).

208 Figure 8 illustrates the amounts owed to secured creditors by industry.

Unpaid taxes and charges

209 Most reports (89%) indicated that the amount of unpaid taxes and charges was \$250,000 or less.

210 Of the top six industries, Personal & other services exceeded this percentage of reports owing \$250,000 or less in unpaid taxes and charges with 94.4%.

211 Of the top six industries, Construction and Services to business had the highest percentage of unpaid taxes and charges over \$1 million (2.5% each) compared to the percentage across all industries of 1.8%. See Table 70.

Note: In the 'Other industries' category, the three industries that most exceeded this percentage across all industries (1.8%) of unpaid taxes and charges of over \$1 million were Managed investments (12%), Mining (9.1%), and Credit provider (6.7%). These industries represented 1.4% of all reports.

Table 69: Initial external administrators' reports—Amount owed to secured creditors by industry (1 July 2007–30 June 2008)

	Construction		Services to business		Retail trade		Property & business services		Accommodation, cafes & restaurants		Personal & other services		Other industries		Total	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
\$0	1,148	75.7%	735	84.2%	583	67.8%	450	70.0%	345	68.0%	407	81.7%	1,379	67.8%	5,047	72.8%
\$1–less than \$500,000	254	16.7%	112	12.8%	207	24.1%	104	16.2%	124	24.5%	70	14.1%	431	21.2%	1,302	18.8%
\$500,000–less than \$1 million	42	2.8%	18	2.1%	26	3.0%	24	3.7%	12	2.4%	12	2.4%	72	3.5%	206	3.0%
\$1 million–less than \$5 million	53	3.5%	6	0.7%	31	3.6%	43	6.7%	18	3.6%	8	1.6%	109	5.4%	268	3.9%
\$5 million–\$10 million	9	0.6%	2	0.2%	2	0.2%	15	2.3%	0	0.0%	1	0.2%	23	1.1%	52	0.8%
Over \$10 million	11	0.7%	0	0.0%	11	1.3%	7	1.1%	8	1.6%	0	0.0%	21	1.0%	58	0.8%
Total for industry	1,517	100.0%	873	100.0%	860	100.0%	643	100.0%	507	100.0%	498	100.0%	2,035	100.0%	6,933	100.0%

Note: 'Other industries' includes Agriculture, Communication & services, Credit provider, Cultural & recreational services, Education, Electricity, gas & water supply, Health & community services, Insurance, Managed investments, Manufacturing, Mining, Other financial services, Superannuation, Transport and storage and Wholesale trade.

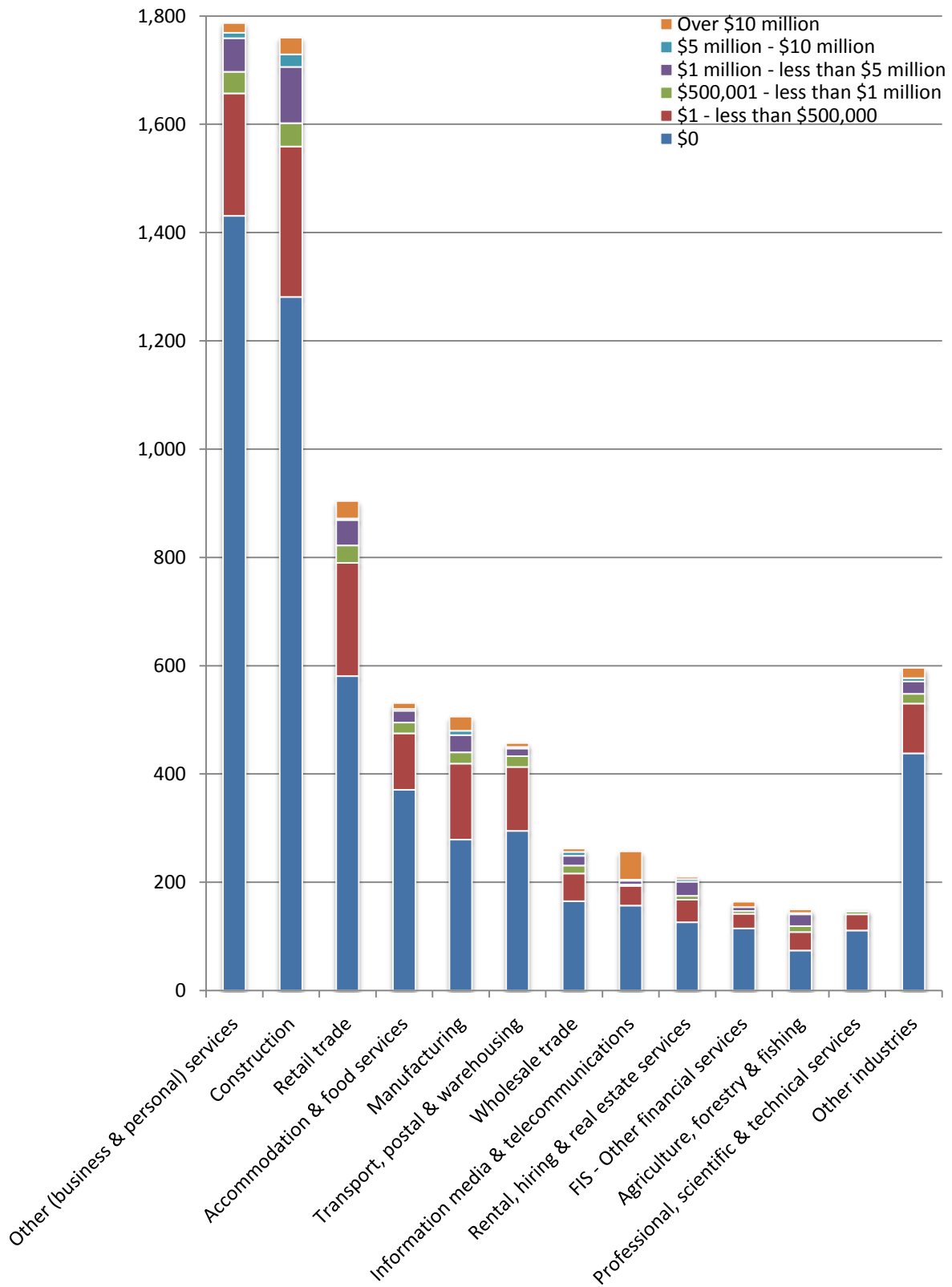
Figure 8: Initial external administrators' reports—Amount owed to secured creditors by industry (1 July 2007–30 June 2008)

Table 70: Initial external administrators' reports—Amount owed in unpaid taxes and charges by industry (1 July 2007–30 June 2008)

	Construction		Services to business		Retail trade		Property & business services		Accommodation, cafes & restaurants		Personal & other services		Other industries		Total	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
\$0	309	20.4%	152	17.4%	165	19.2%	145	22.6%	51	10.1%	98	19.7%	376	18.5%	1,296	18.7%
\$1–\$250,000	1,013	66.8%	595	68.2%	641	74.5%	406	63.1%	418	82.4%	372	74.7%	1,430	70.3%	4,875	70.3%
\$250,001–\$1 million	157	10.3%	104	11.9%	47	5.5%	82	12.8%	31	6.1%	24	4.8%	190	9.3%	635	9.2%
Over \$1 million	38	2.5%	22	2.5%	7	0.8%	10	1.6%	7	1.4%	4	0.8%	39	1.9%	127	1.8%
Total for industry	1,517	100.0%	873	100.0%	860	100.0%	643	100.0%	507	100.0%	498	100.0%	2,035	100.0%	6,933	100.0%

Note: 'Other industries' includes Agriculture, Communication & services, Credit provider, Cultural & recreational services, Education, Electricity, gas & water supply, Health & community services, Insurance, Managed investments, Manufacturing, Mining, Other financial services, Superannuation, Transport & storage and Wholesale trade.

Unsecured creditors

Number of unsecured creditors

- 212 Most reports for 2007–2008 (88.6%) indicated the company had 50 or less unsecured creditors. Of the top 12 industries, those which had the greatest percentages of 50 or less unsecured creditors were Other financial services (94.4%), Property & business services (93.8%) and Services to business (92.3%). See Table 71.

Amount owed to unsecured creditors

- 213 The majority (68.3%) of companies owed less than \$250,000 to unsecured creditors. Of the top 12 industries, the three which had the greatest percentage of companies in this category were Personal & other services (83.3%), Services to business (79.8%) and Transport & storage (73.1%).
- 214 The two industries with the highest number of reports where companies owed more than \$10 million to unsecured creditors were Retail trade (12 reports) and Other financial services (6 reports).

Note: In the 'Other industries' category, two industries showed three reports each where companies owed more than \$10 million to unsecured creditors: Managed investments and Mining.

Amounts owed to related parties

- 215 Of the total amount owed to unsecured creditors, 17% of lodgements reported that more than 50% of the debt was owed to related parties. Of the top 12 industries, those with the greatest percentage of reports showing more than 50% owed to related parties were Retail trade (23.8%), Other financial services (23.7%), and equal third, Accommodation, cafes & restaurants and Manufacturing (22.1%).

Note: Of those listed in 'Other industries', seven exceeded this percentage across all industries (17%): Health & community services and Credit provider (26.7% each), Managed investments (26%), Mining (24.2%), Electricity, gas & water supply (22.2%), Cultural & recreational services (19.8%) and Education (17.9%).

Cents in the dollar dividend

- 216 In 2007–2008, the dividend estimated to be payable to unsecured creditors was less than 11 cents in the dollar for most reports (96.4%). Of the top 12 industries, the top three with an estimated return of less than 11 cents in the dollar were Other financial services (99%), Retail trade (98.4%) and Communication & services (98.3%). 'Other industries' includes two industries where 100% estimated less than 11 cents in the dollar: Education (28 reports) and Superannuation (3 reports).
- 217 Of the top 12 industries, the two industries with the greatest percentage of estimated returns of more than 50 cents in the dollar to unsecured creditors were Property & business services (2.3%) and Wholesale trade (1.5%), compared to the proportion across all industries of 1%. See Table 72.

Table 71: Initial external administrators' reports—Number of unsecured creditors, amount owed and reports where > 50% is owed to related parties by industry (1 July 2007–30 June 2008)

	Construction	Services to business	Retail trade	Property & business services	Accommodation, cafes & restaurants	Personal & other services	Transport & storage	Manufacturing	Wholesale trade	Communication & services	Other financial services	Agriculture	Other industries	Total	% of total
Number of unsecured creditors															
Less than 25	1,206	754	568	563	375	434	337	263	166	176	172	95	251	5,360	77.3%
25–50	153	52	162	40	74	25	47	80	45	29	15	14	47	783	11.3%
51–200	123	39	103	26	44	20	38	77	41	22	8	12	27	580	8.4%
More than 200	7	1	6	1	0	2	6	4	4	1	1	0	6	39	0.6%
Unknown	28	27	21	13	14	17	10	10	4	6	2	6	13	171	2.5%
Total for industry	1,517	873	860	643	507	498	438	434	260	234	198	127	344	6,933	100.0%
Amount owed to unsecured creditors															
Less than \$250,000	1,049	697	536	423	358	415	320	251	130	141	133	74	207	4,734	68.3%
\$250,000–\$500,000	208	85	157	74	81	41	63	75	40	33	22	19	40	938	13.5%
\$500,001–less than \$1 million	113	43	84	67	46	22	19	55	30	24	16	17	39	575	8.3%
\$1 million–less than \$5 million	124	46	67	72	21	18	29	45	52	25	17	14	40	570	8.2%
\$5 million–\$10 million	18	2	4	5	0	1	3	6	3	9	4	2	9	66	1.0%
Over \$10 million	5	0	12	2	1	1	4	2	5	2	6	1	9	50	0.7%
Total for industry	1,517	873	860	643	507	498	438	434	260	234	198	127	344	6,933	100.0%
Amounts owed to related parties															
> 50% owed to related parties	173	123	205	128	112	57	34	96	53	48	47	24	78	1,178	17.0%
% of reports lodged for industry	11.4%	14.1%	23.8%	19.9%	22.1%	11.4%	7.8%	22.1%	20.4%	20.5%	23.7%	18.9%	22.7%		

Note: 'Other industries' includes Credit provider, Cultural & recreational services, Education, Electricity, gas & water supply, Health & community services, Insurance, Managed investments, Mining and Superannuation.

Table 72: Initial external administrators' reports—Amount payable to unsecured creditors—Cents in the dollar dividend by industry (1 July 2007–30 June 2008)

	Construction	Services to business	Retail trade	Property & business services	Accommodation, cafes & restaurants	Personal & other services	Transport & storage	Manufacturing	Wholesale trade	Communication & services	Other financial services	Agriculture	Other industries	Total	% of total
0 cents	1,370	800	807	577	479	470	391	393	220	214	186	105	297	6,309	91.0%
Greater than 0 but less than 11 cents	85	40	39	35	14	13	29	26	22	16	10	12	31	372	5.4%
11–20 cents	20	13	6	7	0	3	10	5	7	2	1	5	5	84	1.2%
21–50 cents	24	14	5	9	8	6	5	5	7	2	1	4	9	99	1.4%
51–100 cents	18	6	3	15	6	6	3	5	4	0	0	1	2	69	1.0%
Total for industry	1,517	873	860	643	507	498	438	434	260	234	198	127	344	6,933	100.0%

Note: 'Other industries' includes Credit provider, Cultural & recreational services, Education, Electricity, gas & water supply, Health & community services, Insurance, Managed investments, Mining and Superannuation.

Completion of external administration

- 218 In the opinion of external administrators, the majority of external administrations (73.6%) were expected to be completed within six months of the date of lodging their report. This was in addition to the time already taken to lodge the report. Table 59 shows that 28.9% of reports were lodged more than 12 months after the external administrator's appointment.

Table 73: Initial external administrators' reports—Expected time to complete the external administration (1 July 2007–30 June 2008)

	No.	%
0–less than 3 months	2,811	40.5%
3–less than 6 months	2,289	33.0%
6 months–1 year	1,418	20.5%
Over 1 year	415	6.0%
Total	6,933	100.0%

Proposed action

Public examinations

- 219 In 148 reports (2.1%), the external administrator noted that they were intending to hold public examinations to question a company's directors about the affairs of the company.

Recovery proceedings

- 220 Recovery proceedings for property or compensation for the benefit of creditors under Pt 5.7B of the Corporations Act either had been initiated or their initiation had been considered in 1,073 (15.5%) of all reports.

Company officers

- 221 External administrators advised in 3,636 reports (52.4%) that officers of the company were or had been officers of other companies. A further 1,846 (26.6%) reports indicated it was unknown if officers were or had been officers in other companies.
- 222 External administrators advised in 445 reports (6.4%) that, in their opinion, there were shadow directors.

External administrator's remuneration

- 223 Excluding the \$0 and not applicable results, the most common category of external administrator's estimated collectible fees was liquidator fees, with 4,675 reports. Of these, 4,282 reports estimated collectible liquidator fees between \$1 and \$50,000.
- 224 Of the reports that completed the voluntary administration fees question, 1,417 estimated the collectible fees to be between \$1 and \$50,000.

Table 74: Initial external administrators' reports—External administrator's remuneration (1 July 2007–30 June 2008)

	Voluntary administration fees		Deed of company arrangement fees		Liquidator fees		Receiver/ controller fees	
	No.	%	No.	%	No.	%	No.	%
\$0	1,362	19.6%	1,654	23.9%	2,125	30.7%	1,671	24.1%
\$1–\$50,000	1,417	20.4%	117	1.7%	4,282	61.8%	26	0.4%
\$50,001–\$100,000	149	2.1%	17	0.2%	276	4.0%	21	0.3%
\$100,001–\$250,000	41	0.6%	1	0.0%	90	1.3%	7	0.1%
Over \$250,000	19	0.3%	10	0.1%	27	0.4%	14	0.2%
Not applicable	3,945	56.9%	5,134	74.1%	133	1.9%	5,194	74.9%
Total	6,933	100.0%	6,933	100.0%	6,933	100.0%	6,933	100.0%

Note: More than one fee type may be entered if the appointee has been, is or expects to be appointed to more than one type of role in relation to the company.

Key terms

Term	Meaning in this document
AA Fund	Assetless Administration Fund
administrator	A voluntary administrator Note: The definition in this document is therefore different to that in s9.
ANZSIC	Australian and New Zealand Standard Industrial Classification
ASCOT	ASIC's corporate database
ASIC	Australian Securities and Investments Commission
CALDB	Companies Auditors and Liquidators Disciplinary Board
Ch 5 (for example)	A chapter of the Corporations Act (in this example numbered 5)
Corporations Act	<i>Corporations Act 2001</i> (Cth)
deed administrator	An administrator of a deed of company arrangement
electronic—direct	Schedule B reports lodged directly by external administrators through the registered liquidators' portal
electronic—staff portal	Schedule B reports lodged on paper by external administrators in the Schedule B report format and subsequently entered by ASIC staff through the staff portal
electronically lodged report	A Schedule B report lodged directly by external administrators through the registered liquidators' portal, or on paper by external administrators in the Schedule B format, and subsequently entered by ASIC staff through the staff portal
EXAD	External administration
external administration	The corporate insolvency that the external administrator has been appointed to administer
external administrator	A liquidator, receiver or administrator
initial external administrator report	The first electronically lodged Schedule B report after a company has entered external administration
insolvency practitioner	A generic term to describe registered liquidators generally, regardless of whether they have been appointed to one or more specific external administrations

Term	Meaning in this document
liquidator	An insolvency practitioner appointed under Ch 5 of the Corporations Act to wind up the affairs and distribute the property of a body corporate
manual report	A report lodged by external administrators on paper not in Schedule B format
Practice Note 50	A guide first issued by ASIC on 28 April 1994 for external administrators regarding their reporting obligations to ASIC, superseded by Regulatory Guide 16 on 2 October 2007
Pt 5.7B (for example)	A part of the Corporations Act (in this example, numbered 5.7B)
receiver	An insolvency practitioner appointed under an instrument or by the court to receive property of a body corporate
report	An initial external administrator report
RG 16	Regulatory Guide 16 issued by ASIC on 2 October 2006 for external administrators on their reporting obligations to ASIC, replacing Practice Note 50
registered liquidator	A person registered by ASIC under s1282(2)
remuneration	Estimated remuneration to be paid to the insolvency practitioner for services rendered in conducting an external administration
s9 (for example)	A section of the Corporations Act (in this example, numbered 9)
secured creditor	A chargee as defined by s9
Schedule B report	A report whose format is in accordance with Schedule B of RG 16 and lodged with ASIC under s533 (by a liquidator), s438D (by an administrator), or s422 (by a receiver)
voluntary administrator	An administrator of a company but not a deed of company arrangement

Related information

Regulatory guides

RG 16 *External administrators: Reporting and lodging*

Legislation

Corporations Act, Pt 5.2, 5.3A, 5.6

Other

Statistics on companies entering external administration and insolvency appointments are available from <http://www.asic.gov.au/insolvency-resources>.

Information on Australian and New Zealand Standard Industrial Classification (ANZSIC) 2006 is available from www.abs.gov.au/anzsic.